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11  
12 **UNITED STATES DISTRICT COURT**  
13 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

14  
15 MICHAEL LAVIGNE, *et al.*,  
16 Plaintiffs,  
17 vs.  
18 HERBALIFE LTD., *et al.*,  
19 Defendants.

CASE NO. 2:18-cv-07480-JAK (MRWx)  
[Related Case 2:13-cv-02488-BRO-RZ]  
**DECLARATION OF ERIC MILLER  
OF A.B. DATA REGARDING  
COMPLIANCE WITH NOTICE  
REQUIREMENTS**

Assigned to Hon. John A. Kronstadt,  
Courtroom 10B

1 I, Eric Miller, declare:

2 1. I am a Senior Vice President with A.B. Data, Ltd. (“A.B. Data”). A.B.  
3 Data has been selected by the parties to act as the Claims Administrator. I am fully  
4 familiar with the facts contained herein based upon my personal knowledge, and if  
5 called as a witness, could and would testify competently thereto.

6 2. I previously submitted a Declaration (“Declaration of Eric Miller of A.B.  
7 Data in Support of Plaintiffs’ Motion for Final Approval of Class Action Settlement”)  
8 regarding A.B. Data’s efforts to comply with the notice requirements under the terms  
9 of the Stipulation of Settlement (the “Settlement Agreement”) as part of the Plaintiffs’  
10 Notice of Motion, Motion for Final Approval of Class Action Settlement;  
11 Memorandum of Points and Authorities In Support Thereof. The following re-states  
12 portions of and supplements that Declaration.

13 3. Pursuant to the Stipulation of Settlement (the “Settlement Agreement”),  
14 A.B. Data was responsible for sending the Notice of Proposed Class Action  
15 Settlement (the “Notice”) to potential Settlement Class Members via email and postal  
16 mail. Copies of the final versions of each were presented in the prior Declaration.

17 4. As previously stated, on April 11, 2023, A.B. Data received from  
18 Counsel for the Defendant a list containing the name, address, email address, and  
19 distributor information in Defendants’ records for 2,841,430 U.S. Herbalife  
20 distributors during the Class Period (the “Class List”). This enabled A.B. Data to  
21 provide direct notice to the millions of individuals who were active Herbalife  
22 distributors between 2009 and 2023, without limiting the notice to those that attended  
23 an event. Additional discussion of the data provided to A.B. Data can be found in the  
24 prior Declaration.

25 5. Prior to the initial mailing of the Notices to potential Settlement Class  
26 Members, A.B. Data standardized and updated the mailing addresses for the Class  
27 List using the National Change of Address (“NCOA”) system maintained by the  
28

1 United States Postal Service (“USPS”) in an effort to improve deliverability rates.

2 6. As previously stated, on May 19, 2023, A.B. Data caused Summary  
3 Notices to be sent by First-Class Mail to the 463,187 U.S.-based Herbalife  
4 Distributors with mailing addresses on the Class List, but without email addresses.

5 7. Pursuant to the terms of the Settlement Agreement, the Summary Notice  
6 was to be emailed to all U.S.-based Herbalife Distributors with a known email  
7 address. Beginning on May 8, 2023, and concluding on May 19, 2023, A.B. Data  
8 emailed the Notice (the “Email Notice”) to 2,347,562 email addresses derived from  
9 the Class List.

10 8. 597,183 emails were returned undeliverable, known as a bounce-back.  
11 On June 4, 2023, Summary notices were sent to 596,611 potential Settlement Class  
12 Members for whom mailing addresses were available via First-Class Mail.

13 9. As previously stated, 181,308 Notices mailed to U.S.-based Herbalife  
14 Distributors were reported by the USPS to A.B. Data as undeliverable as addressed  
15 (“UAA”). A.B. Data promptly remailed 108,610 of these UAA Notices to either  
16 forwarding addresses provided by the USPS or updated mailing addresses ascertained  
17 through a third-party information provider to which A.B. Data subscribes.

18 10. Additional notification activities were documented in the prior  
19 Declaration.

20 **CLASS ACTION FAIRNESS ACT NOTICE ON**  
21 **STATE AND FEDERAL OFFICIALS**

22 11. As previously stated, on June 6, 2022, A.B. Data served notice upon the  
23 appropriate State official of each State and the appropriate Federal official, a notice  
24 of the Settlement at the request of Defendant Herbalife, in compliance with 28 U.S.C.  
25 Sections 1715(b)(1)-(8). Additional description of compliance with the Class Action  
26 Fairness Act can be found in the prior Declaration.

27 **WEBSITE AND TOLL-FREE NUMBER**

28 12. On May 5, 2023, A.B. Data established a case-dedicated website for this

1 Action, [www.herbalifeclaimactionsettlement.com](http://www.herbalifeclaimactionsettlement.com). Website content was discussed in  
2 detail in the prior Declaration. A.B. Data continues to maintain the Settlement  
3 Website and post updates and Court files as needed.

4 13. On May 5, 2023, A.B. Data caused the toll-free number 1-866-217-4455  
5 to be opened to the public. Details and features of the phone line were discussed in  
6 the prior Declaration. As of the date of the prior Declaration, A.B. Data has received  
7 2,787 calls. Since then, A.B. Data received an additional 41 calls. In addition to the  
8 toll-free number, claimants are also provided with an email address to submit  
9 inquiries. As of the date of the prior Declaration, A.B. Data has received 879 emails  
10 to the case specific email address. Since then, A.B. Data has received an additional  
11 29 emails.

### 12 **EXCLUSIONS AND OBJECTIONS**

13 14. The Notice informed potential Settlement Class Members that requests  
14 for exclusion from the Settlement, and objections to the Settlement, must be submitted  
15 or postmarked on or before August 4, 2023. A.B. Data previously stated that three (3)  
16 individuals have requested exclusion, and one (1) person has objected to the terms of  
17 the Settlement.

18 15. As of the date of this Declaration, A.B. Data has not received any  
19 additional exclusion requests, nor have they received any additional objections, timely  
20 or otherwise.

### 21 **REPORT ON CLAIM FORMS RECEIVED**

22 16. As of the date of the prior Declaration, A.B. Data has received a total of  
23 164,790 Claim Forms. As of this date of this Declaration, A.B. Data has received an  
24 additional four (4) late Claim Forms.

25 17. A.B. Data previously discussed in detail the various aspects of  
26 processing Claim Forms, including the use of bots to file fraudulent claims, in the  
27 prior Declaration.

1 18. A.B. Data will continue its review, working closely with Class Counsel  
2 and Counsel for Herbalife to identify and reject any claims submitted by non-  
3 Settlement Class Members.

4 **ADMINISTRATIVE FEES AND EXPENSES**

5 19. Through the ongoing settlement administration process, A.B. Data has  
6 incurred administrative costs totaling \$840,269.81 to date. A.B. Data discussed the  
7 specifics of their administrative fees and expenses in detail in the prior Declaration.  
8

9 I declare under penalty of perjury under the laws of the United States of  
10 America that the foregoing is true and correct. Executed on September 24, 2023, at  
11 Palm Beach Gardens, Florida.

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14 \_\_\_\_\_  
Eric Miller