

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL**

MINUTE ORDER

DATE: 01/17/2025

TIME: 8:30 AM

DEPT: C-65

JUDICIAL OFFICER: ROBERT C. LONGSTRETH

CLERK: Morgan Acosta

REPORTER/ERM:

BAILIFF/COURT ATTENDANT: B. Vermillion

CASE NO: **37-2021-00030939-CU-WM-CTL** CASE INIT.DATE: 07/20/2021

CASE TITLE: **Allred VS City of San Diego [E-FILE]**

CASE CATEGORY: Civil CASE TYPE: (U)Writ of Mandate: Writ of Mandamus - Prohibit

HEARING TYPE: Motion Hearing

MOVING PARTY:

APPEARANCES

Meghan Ashley Wharton, Attorney for Defendant(s).

David Elliot, attorney, present via remote audio appearance.

The Court CONFIRMS the tentative ruling as follows:

Plaintiffs' Motion for Approval of Notice to Class (ROA 106) is GRANTED.

Upon certification, a class notice is to include "(1) A brief explanation of the case, including the basic contentions or denials of the parties; (2) A statement that the court will exclude the member from the class if the member so requests by a specified date; (3) A procedure for the member to follow in requesting exclusion from the class; (4) A statement that the judgment, whether favorable or not, will bind all members who do not request exclusion; and (5) A statement that any member who does not request exclusion may, if the member so desires, enter an appearance through counsel." (Cal. R. Court, rule 3.766(d).)

Plaintiffs' proposed class notice complies with the above requirements. (ROA 107, Marron Decl. at Exh. A.) Defendant City of San Diego opposes the motion on the ground that it should include the contention that "Defendant further claims that any monetary relief awarded to Plaintiffs will be paid out from current and future wastewater rate revenue," which is not included in the proposed notice. However, the court finds that this is not a basic contention of the case and is instead a subordinate argument that is not necessary for class members to understand the essence of the lawsuit.

Plaintiffs propose to provide several means: 1) direct notice by way of email; 2) a class website; 3) posting notice on the City's website; and 4) a press release to be published in PR Newswire. These means of notice appear to have a reasonable chance of reaching a substantial percentage of the class.

The City "does not formally oppose the class notice plan," but suggests that it is not sufficient as to many class members because the only direct notice is by email. (ROA 1120 at 2:9-14.) The City indicates that its Public Utilities Department (PUD) has email addresses for approximately 70% of current and 60% of former customers who are part of the certified class. The City also estimates that the class is estimated to consist of approximately 458,000 members.

Email notice is increasingly common, and a summary email notice combined with a link to a website containing a long-form notice has been recognized as "a sensible and efficient way of providing notice." (*Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 58.) Further, the City has not addressed the fact that, as set forth above, the proposed notice plan sets forth additional means of providing notice, including posting on its own website used by customers, and a press release. The applicable court rule provides that under certain circumstances, including where "it appears that all members of the class cannot be notified personally," the court may determine the proper means of notice that is "reasonably calculated to apprise the class members of the pendency of the action – for example, publication in a newspaper or magazine; broadcasting on television, radio, or the Internet; or posting or distribution through a trade or professional association, union, or public interest group." (Cal. R. Court, rule 3.766(f); see also *Noel v. Thrifty Payless, Inc.* (2019) 7 Cal.5th 955, 983, "the representative plaintiff in a California class action is not required to notify individually every readily ascertainable member of his class without regard to the feasibility of such notice; he need only provide meaningful notice in a form that should have a reasonable chance of reaching a substantial percentage of class members" (quoting *Archibald v. Cinerama Hotels* (1976) 15 Cal.3d 853, 861 (internal quotation marks omitted)).) The court finds that this standard is met.

Notice is to be disseminated to the class in accordance with Plaintiffs' class notice plan within 30 days of the court's signed order granting this motion. The notice shall advise class members that they may request to be excluded and that the exclusion deadline is 60 days from the court's signed order granting this motion.

Plaintiffs are to submit a revised proposed order attaching the proposed class notices directly to the proposed order, rather than incorporating them by reference, within five (5) days.

Robert C. Longstreth

Judge Robert C. Longstreth