

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT NEW YORK**

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: (Gleeson, J.) (Mann, M.J.)
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**DECLARATION OF MITCHELL C. SHAPIRO, ESQ. OF CONSTANTINE AND
PARTNERS, LEAD COUNSEL FOR PLAINTIFFS, IN SUPPORT
OF THE NOVEMBER 15, 2002 STATUS REPORT CONCERNING NOTICE
TO MEMBERS OF THE CERTIFIED CLASS**

I, MITCHELL C. SHAPIRO, hereby declare as follows:

1. I am a partner at Constantine & Partners, lead counsel for plaintiffs, and am the attorney primarily responsible for negotiating, coordinating and supervising the implementation of the Class Notice plan on behalf of plaintiffs. I respectfully submit this declaration to “describe the activities undertaken to provide notice to the class, including the dates on which mailings of notice took place and the dates on which notice was published” in accordance with paragraph 18 of the Consent Order For Providing Notice to Members of the Certified Class, dated June 21, 2002 (the “Consent Order”). A detailed description of plaintiffs’ diligent, successful efforts, of which I have personal knowledge, and if called upon to testify could competently do so, follows.
2. Pursuant to paragraph 13 of the Consent order, and as detailed in the accompanying affidavit of Neil L. Zola, Esq., the Executive Vice President and Chief Operating Officer of Garden City Group (“GCG”), the court-appointed Class Notice administrator, dated November 15, 2002 (“Zola Aff.”), GCG caused a copy of the Court-approved Notice of Pendency (the

“Notice”) to be mailed to each of the 7,657,885 addressees on the class member list during the ten day period commencing on September 9, 2002. GCG undertook reasonable efforts to promptly locate proper addresses for, and re-mail notices to, those persons or entities whose notices were returned as undeliverable. See Zola Aff. ¶ 7.

3. Pursuant to paragraph 14 of the Consent Order, and as detailed in the accompanying affidavit of Wayne L. Pines, GCG Executive Vice President, sworn to on November 14, 2002 (“Pines Aff.”), plaintiffs caused the Summary Notice to be published in the publications listed in Exhibit I of the Consent Order. Pursuant to the Notice Plan, which was designed to reach a maximum number of potential class members, the Summary Notice appeared in 12 general circulation publications and 7 merchant trade publications, reaching a circulation of over 157 million. See Pines Aff. ¶¶ 10,11, 12.

4. Pursuant to paragraph 14 of the Consent Order and as detailed in the accompanying declaration of Libby Holman, sworn to on November 15, 2002 (“Holman Aff.”), plaintiffs caused the Summary Notice to be published over the PR newswire to more than 2,400 media outlets, including newspapers, magazines, national wire services, television and radio broadcast media, web sites, and Internet portals.

5. Pursuant to paragraph 14 of the Consent Order, plaintiffs caused the Summary Notice to be published in the three plaintiff trade associations’ publications. In addition, the three plaintiff merchant trade associations disseminated notice by mailing either the notice or summary notice directly to members and posted either the notice or links to the notice on each of their websites for the duration of the class notice period. These efforts are detailed in the accompanying declarations of George Green, Esq., Vice President and General Counsel of Food Marketing Institute (“Green/FMI Dcl.”), Mallory Duncan, Esq., Senior Vice President and General Counsel of National Retail Federation (“Duncan/NRF Dcl.”), and Morrison G. Cain, Esq., Senior Vice

President and General Counsel of International Mass Retail Association (“Cain/IMRA Dcl.”), all dated November 15, 2002.

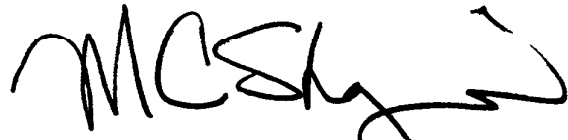
6. Pursuant to the Consent Order, GCG established and maintained throughout the class notice period, a website that contained all of the materials specified in the Consent Order, including the Notice of Pendency and the Summary Notice, and links with which absent class members could forward e-mails to both GCG and co-lead counsel. *See Zola Aff.* ¶ 13. As required by the Consent Order, GCG and Constantine & Partners also established and maintained the telephone numbers dedicated to inquiries from absent class members.

7. In compliance with paragraphs 15 and 17 of the Consent Order, Constantine & Partners personnel received and promptly responded to inquiries from absent class members in the forms of letters, telephone calls, and emails from potential class members, including questions regarding the Notice, address changes, requests for inclusion and requests for exclusion and the rights of absent class members. Through November 14, 2002, lead and co-lead counsel had received and responded to a total of 751 inquiries (consisting of 91 letters, 131 emails and 511 telephone calls). I personally responded to many of these inquiries.

8. All requests for exclusion and requests for copies of the Notice or address changes were forwarded to GCG. I understand that GCG promptly responded to all such inquiries promptly. *See Zola Aff.* ¶ 13. GCG has compiled a list of all persons and entities whose requests for exclusion from the class had been received by GCG through November 14, 2002, a copy of which is annexed to the accompanying Zola Declaration.

I declare under penalty of perjury, that the foregoing is true and correct to the best of my knowledge, information and belief.

Dated: New York, New York
November 15, 2002



MITCHELL C. SHAPIRO