

## Class Says Monster CEO Must Pay In HDMI Cable Settlement

By **Lauraann Wood**

Law360 (February 6, 2020, 4:18 PM EST) -- Consumers who settled a class action claiming Monster Inc. misleadingly packaged HDMI cables have asked an Illinois state court to pierce the insolvent company's corporate veil and "prevent manifest injustice" by making its CEO personally responsible for the payout.

The consumers say Monster agreed to pay nearly \$2 million to satisfy all the valid claim submissions and outstanding service, administration and attorney fees as part of a settlement. The class had claimed that Monster's HDMI cable packages unlawfully duped consumers nationwide into purchasing cables that were more powerful, and therefore more expensive, than necessary to deliver images to their high-definition televisions.

Plaintiffs Amy Joseph and Robert O'Brien said in a lawsuit filed in Cook County Circuit Court on Tuesday that Monster now says it doesn't have the money to fulfill the deal.

The consumers claim that deficit is a result of the company's inadequate capitalization, and they want a judge to attach the settlement obligation to Monster founder and CEO Noel Lee, its sole preferred shareholder. They argued that the company is just a corporate facade for Lee, who runs its day-to-day operations.

"The corporation demonstrated in numerous ways that it did and does not follow corporate formalities, and the corporations should be disregarded as a corporate entity," Joseph and O'Brien claimed. "The judgment entered against the corporation should, therefore, also be entered against the individual."

**The settlement** reached with Monster, Best Buy Stores LP and the electronic retailer's online business in June gave about 1.4 million consumers the option to choose cash payment or store credit to be compensated for buying the cables at issue. The deal became effective in November, after an intervenor dismissed his appeal of the court's final approval order and other rulings in the case, according to the consumers' suit.

That effective date triggered the two-week time frame Monster had to give the settlement administrator the money it would need to satisfy class members' valid claims, Joseph and O'Brien claim. Those checks, Joseph and O'Brien's incentive award and the first installment of attorney fees were supposed to be paid out by Jan. 13, according to the suit.

The second fee installment is due in March, but Monster's failure to pay any of the other amounts it owes "evidences [the company's] intention to fail to fulfill its contractual obligations" to pay that part as well, Joseph and O'Brien claimed.

"Monster signed the agreement in July 2016 and, thus, has been fully aware for more than 3 ½ years of its obligation to pay the agreed-upon amounts," their suit said. "Monster's failure to pay the agreed-upon amounts is willful, unreasonable, and vexatious."

Counsel for Joseph and O'Brien did not immediately respond Thursday to a request for comment.

Counsel information for Monster and Lee could not immediately be determined Thursday.

Joseph and O'Brien are represented by Thomas Zimmerman Jr., Sharon Harris, Matthew De Re and Jeffrey Blake of Zimmerman Law Offices PC.

The case is Amy Joseph et al. v. Monster Inc. et al., case number 20-L-001456, in the Circuit Court of Cook County, Illinois.

--Editing by Haylee Pearl.