

Monster HDMI Cable Packaging Settlement Gets Initial OK

By **Lauraann Wood**

Law360 (March 6, 2018, 9:16 PM EST) -- An Illinois state judge on Tuesday gave preliminary approval to a proposed class settlement with Monster Inc. and Best Buy in a suit accusing the two of selling various HDMI cables in packaging that misleads consumers into thinking they need more powerful, and thus more expensive, cables than necessary to transmit a signal to their high-definition televisions.

Cook County Circuit Judge Franklin Ulysses Valderrama gave his initial nod to the deal, which will compensate valid settlement claims by paying certain amounts per claim rather than pulling from a specific fund pool, despite his finding that the parties' proposed changes to the cables' packaging do not provide "any meaningful change" to their current form.

"From my perspective, that is something I will consider in the court's evaluation of the overall settlement," Judge Valderrama said.

He also rejected several arguments from a group of intervenors who had challenged the agreement, including that the parties conducted insufficient discovery before reaching the deal and proposed an inadequate notice process to reach potential class members.

And despite intervenor Daron Jacobson's argument that he could have secured a higher-value deal that better protects the class's rights, that is not the standard through which courts assess a class action's strength or decide whether to grant preliminary approval, the judge held.

Settling class members with proof of their cable purchases will receive between \$10 and \$18 for each Monster cable they bought between August 2011 and the date of preliminary approval that transmits a high-definition signal at a bandwidth greater than 10.2 gigabits per second, which lead plaintiff Amy Joseph alleges is the only bandwidth necessary to see a picture on any high-definition TV.

Class members could also receive between \$15 and \$35 depending on cable speed if they opt to exchange their more powerful cable for a 10.2-Gbps cord with the settlement administrator, or they could receive between \$20 and \$30 in Monster website credit if they file a claim without proof of purchase. Those who prefer website credit will have to provide proof of purchase for each cable purchased if they file more than one claim under that option.

The parties will send email notice of the deal to the 1.6 million class members for whom the settlement administrator has email addresses, and they will send postcard notice where home addresses are available in the event of an undeliverable email. The parties will also place six different internet banners online to provide indirect notice to any potential outlying class members, according to the proposed deal.

While the amount of money Monster and Best Buy will ultimately pay remains uncertain, both the email and postcard notices include a passage indicating class counsel will request no more than \$325,000 in attorneys' fees for their work on the case.

Despite giving parties the initial OK, Judge Valderrama cautioned that the official number of class

member claims filed in the case "will be very important" to him when considering whether to grant final approval during their final fairness hearing in August.

Joseph filed her 2015 lawsuit about one month after California resident Benjamin Perez filed a class action with **similar claims** in California federal court. Perez intervened to challenge the proposed deal in Joseph's case in 2016, after a California federal judge stayed his suit, but both the plaintiffs and defendants have since moved for sanctions against both him and his counsel over claims that he lied about his standing as a settling class member at all, let alone his standing to intervene in the Illinois case.

Judge Valderrama is set to rule on that motion Friday.

Thomas Zimmerman, who represents the class, told Law360 on Tuesday that he "can't comment enough" on the attention and weight Judge Valderrama gave to the case, its settlement and the arguments raised on both sides of the aisle.

"We are very fortunate to have Judge Valderrama taking the time that he did to study all the terms of the settlement to ensure that the rights of the class members were protected," Zimmerman said.

Counsel for Monster and Best Buy declined to comment on Tuesday.

Counsel for the intervenors did not immediately respond to a request for comment.

The class is represented by Thomas Zimmerman, Sharon Harris and Maebettey Kirby of Zimmerman Law Offices, and Robert Clifford and Shannon McNulty of Clifford Law Offices.

Monster and Best Buy are represented by Joseph Collins of Fox Rothschild LLP.

The intervenors are represented by Josh Arishon of Bursor & Fisher PA and Ismael Salam of Lite DePalma Greenberg LLC.

The case is Amy Joseph et al. v. Monster Inc. et al., case number 15 CH 13991, in the Circuit Court of Cook County.

--Additional reporting by Emily Field. Editing by Catherine Sum.

Correction: A previous version of this story included incorrect counsel information. The error has been corrected.