

Class Suit Over Monster's HDMI Cable Packaging Ends In Deal

By **Lauraann Wood**

Law360 (June 6, 2019, 6:51 PM EDT) -- An Illinois state court granted final approval Wednesday to a class action settlement for consumers who say they were misled by Monster's HDMI cable packaging, giving them the choice between a cash payout or online store credit.

The deal with Monster Inc., Best Buy Stores LP and the electronic retailer's online business will give about 1.4 million consumers the option to choose between a cash payment or online store credit, according to Cook County Associate Judge Franklin Valderrama's final approval order.

On top of the monetary relief, Monster must also change the language on its cable packages at issue and include a "Need For Speed" chart that explains its different cable speeds but doesn't state that any one is necessary for any particular function.

The consumers, led by Amy Joseph and Robert O'Brien, claimed Monster's packaging had misled them to think they needed more powerful, and thus more expensive, cables than necessary to transmit a signal to their high-definition televisions.

Judge Valderrama also issued orders Wednesday approving \$375,000 in attorney fees for class counsel, which will be paid separately from any money used to satisfy class members' claims, as well as \$3,000 in service awards for Joseph and O'Brien.

"We're very pleased with the ruling," class counsel Thomas Zimmerman Jr. of Zimmerman Law Offices PC told Law360 on Thursday.

Judge Valderrama also upheld his **May 2018 sanction** against counsel for an intervenor in the case, who according to the judge failed to reasonably investigate his claim before bringing it. California resident Benjamin Perez, his lawyers and their firms had brought **a similar suit** in California before he tried to intervene in Illinois. Judge Valderrama held that Perez's claim to be a member of the settling class was fraudulent.

One of Perez's lawyers, Katrina Carroll, formerly of Lite DePalma Greenberg LLC, had argued the judge incorrectly held her and the firm liable with his other counsel. She argued that she had been right to rely on the investigation from Perez's other attorney as she looked into his claim about the HDMI cable, and said she had never signed a document containing sanctionable statements from Perez.

But the judge sided with Monster, Best Buy and the consumers, who had all asked him to impose the sanctions. The judge ruled that Carroll's arguments had been raised too late and were misplaced because his sanctions against her were for her failure to investigate Perez's claim individually.

"That the same facts gave rise to the claims underlying the California lawsuit and the Illinois lawsuit does not absolve Carroll for her responsibility," Judge Valderrama said.

Zimmerman told Law360 the judge's sanctions ruling was the right one.

"It was unfortunate that these attorneys presented a frivolous objection by a person who, as Judge

Valderrama found, never even bought the product," he said. "The attorneys that represented the objector are just as culpable for his sanctionable conduct as he is."

Carroll told Law360 in a statement Thursday that she and her co-counsel "are disappointed with yesterday's rulings and believe that the court erred in critical ways."

"At all times, my goal, together with co-counsel, has been to protect the interests of the class and we will continue to do so as this case proceeds on appeal," she said.

Settling class members in the case who have proof of their HDMI 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 plaintiffs Amy Joseph and Robert O'Brien allege is all the 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.

Counsel for Monster and Best Buy did not immediately respond Thursday to a request for comment.

The class is represented by Thomas Zimmerman Jr. and Sharon Harris 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 case is Amy Joseph et al. v. Monster Inc. et al., case number 15-CH-13991, in the Circuit Court of Cook County, Illinois.

--Editing by Daniel King.