



CALIFORNIA JUDICIAL INVESTIGATIONS
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March 22, 2022

Via U.S. Mail and Electronic Mail dmrcrd@cand.uscourts.gov

Honorable Magistrate Judge Donna M. Ryu
United States District Court
Northern District of California
Oakland Courthouse, Courtroom 4 – 3rd Floor
1301 Clay Street, Oakland, CA 94612

RE: Cottle v Plaid, Inc.
Case No. 20-cv-03056-DMR

Dear Honorable Magistrate Judge Donna M. Ryu,

On January 25, 2022, I filed an objection in the above-referenced matter. On March 21, 2022, I was served with a number of documents including a declaration of Attorney Rachel Geman.

First I would like to point out that I appreciate the work of class-counsel. Without plaintiff's counsel, none of these companies would be held accountable. I also realize that Plaintiff's counsel is eager to get paid. But nothing should proceed until counsel can demonstrate to the court that their client's interests have been protected. Here rights of their own clients have taken a back seat and should not be overlooked. It is interesting that not representative from Plaintiff's counsel made any attempt to contact me prior to issuing its response dated 03/21/2022.

Ms. Geman mischaracterizes my objection in many ways. The electronic notice transmitted to it's clients lacked any **direct link** to submit a claim. Clearly, this could have been done if the intent was to encourage people to submit a claim. Making people click on various links, search websites, and jump through hoops is one of the oldest tricks in the book often used by rebate companies and in some cases class action settlement administrators. It is no secret that the less responses they receive reduces their workload and outgoing payments. Nevertheless, the link they provided was broken. Counsel skimmed right over my concerns, and provides absolutely no evidence that she took any steps [emphasis added] to verify, correct and/or re-notify class members. Instead, she has taken a defensive position and simply blows off the many objections raised. Her position is based purely on speculation, assumption and hypothetical views, all of which was not backed by any actual supporting evidence.

For example, on page 7, Line 4, Ms. Geman attempts to skirt around my objection and fails to address my concern about the tiny font instructing people how to file by U.S. Mail. It was faint and difficult to read – in fact, I missed it. She also doesn't provide any evidence demonstrating

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that the purported links she refers to even worked at the time of my objection – or even works now.

On Page 7, Line 10-22, Ms. Geman claims that the broken link “does not appear to be a common problem.” How does she arrive at this conclusion? She fails to provide any supporting evidence whatsoever to the court to support that her theory is true and accurate. It is well known that people responding to class-action cases often either ignore notices, or give up soon after encountering a problem often because it simply is not worth their time (i.e. payouts are often very small). I have also been project manager for a number of web development projects over the last 20+ years. In class-action matters as well as rebate matters, there is no correlation between the number of complaints vs the number of people experiencing problems. Typically, this is because the stakes are too low in value and once people encounter a problem submitting a claim, they are often not motivated to continue or even complain. They are busy and simply give up and move on.

In this case, I have demonstrated that the link was not working. Therefore, absent evidence to the contrary, the court must assume that if the link was broken, then anyone attempting to click on it could not submit a claim. Links are not typically computer specific, rather they are almost always the fault of the code or host. Ms. Geman admits this in her declaration (see Page 7, line 13). The burden is on Ms. Geman to establish that the clients were provided with a fair and reasonable opportunity to submit their claims.

Ms. Geman rambles on about all other available avenue that a person could take to file a claim, short of sending a smoke signal. For the reasons stated above, the average person gives up when they encounter a problem.

Ms. Geman also suggests that just because the impacted parties may have once had an active financial account, that they must, by default still maintain one (see FN 11, page 7). Ms. Geman fails to realize that we are living in a different world today. Many people have lost their jobs, homes and have encountered massive financial problems since Covid. Many have lost their income and even closed their bank accounts. Some are fearful of collections and also stopped using their bank accounts. To assume that each of the class members still have an open account is reckless and fails to protect all class members equally.

As I read the rest of the objections, what becomes clear is that Ms. Geman is unwilling to reasonably review any objection placed before her. She systemically fails to take responsibility for any failures that may have occurred and is unwilling to take reasonable steps to protect her own clients- perhaps fueled to get this matter closed and get paid.

For these reasons, I respectfully request this court intervene and suspend final settlement of this case until the Plaintiff can provide proof to the court that these concerns have been addressed. This includes, but is not limited to, assuring that a reasonable effort has been made to notify class members; that any notice includes clear instructions and direct links how to mail in a claim or to the online claim form or a direct “opt-out” link. If the settlement administrator receives a “bounced” email, a reasonable effort must be made to mail a copy of the notice to the impacted party

Respectfully submitted,

Joseph P. Soldis
Investigator PI24115