

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

JAN 10 2024 AM 10:49
FILED - USDC - FLMD - JRX

In re: Case No. 3:15-md-2626 HES-LLL
DISPOSABLE CONTACT LENS
ANTITRUST LITIGATION.

This document relates to ALL CLASS RE: 1404, 1406, 1407
ACTIONS.

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OBJECTORS' REPLY IN SUPPORT OF OBJECTIONS (1404) AND MOTION FOR
RECONSIDERATION AND MOTION TO STAY ORDER (1407)

Objectors Stan Franklin and Scott Pierce reply to Class Counsel's response filed at 1406 to the objections at 1404:

A. Objectors Withdraw the Objections to Epiqpay

Objectors had to object to Epiqpay because of a lack of transparency by Class Counsel and Epiqpay. The claims administrator knows that in the past they used Blackhawk Network and Pathward which enabled the theft of hundreds of thousands of dollars in class members funds, forcing them into arbitration agreements that Epiq, Blackhawk, and Pathward refuse to comply with.

We applaud the claims administrator for apparently dumping the fraudulent Pathward N.A. and Blackhawk Network, but implore Class Counsel to be more transparent in the future. The failure to give the information in advance results in class members having to guess.

Nevertheless, the belated disclosures render the objection moot and it is withdrawn.

B. Class Counsel's Information as to the Second Distribution is Confusing

Unfortunately, Class Counsel's disclosures as to a "second distribution" are so confusing that objectors have no idea what they are proposing. In the first reading of the proposal, it appeared that Class Counsel intended to distribute a second payment to those who cashed their check. However, for those whose check was LOST or MISADDRESSED or

NOT DELIVERED, it appeared that Class Counsel was suggesting they would receive their original payment, but not the second payment made to other class members.

Now it appears Class Counsel is suggesting that there was never going to be a *pro rata* second payment to those who cashed their check.

Perhaps this Court can read and understand this gobbledygook, but objectors cannot understand it.

What Objectors are stating is that ALL CLASS MEMBERS should receive the SAME PERCENTAGE whether they received the first check or not. In other words, if Mr. Smith received \$1000 and is to receive \$230 as a second payment, then Mr. Jones who did not receive his first check of \$1000 should receive \$1000 plus \$230, not just \$1000. If there is no second distribution to Mr. Smith, then there would be no second distribution to Mr. Jones. However, Objectors cannot understand the poorly written proposals propounded to this Court which were improvidently approved without a hearing.

C. Everyone Should Receive Advanced Notice of the “Contact for Reissue” Deadlines

Class Counsel created self-imposed and already expired deadlines for class members to request payment because they did not receive their checks. Possibly the use of Epiqpay will resolve the mail problems. However, the deadlines remain unfair to the Class. They were not posted. The website never said, “Contact us by XXXXX to have the check reissued or to receive payment by Epiqpay.” Everyone who contacted the claims administrator for reissue should be paid, not only ones who contacted before the arbitrary imposed dates that were never advertised. Finally, there exists a divergence between what Class Counsel is saying to this Court and what was written to class members. Class members were clearly told they WOULD NOT receive their payment. Objectors do not know if those persons clearly told that their reissue request was denied will actually receive payment. Nothing is mentioned as to how this was audited or what methods were used to determine who is eligible. As shown by objections on file, some people requested an address change, but did not use the magical words, “Please reissue my check,” and the claims administrator denied those people. In addition, as stated in the original objections, there is an entire week that falls into no category and that mathematical omission still has not been rectified.

The answer is simple: Make Class Counsel post a deadline AND FORM on the website so class members that did not get paid can make sure they are receiving their money. In addition, *if* there is going to be a second distribution, the FORM should include the ability of people who did receive their check an easy way to update their address if necessary.

D. Escheat is as to Uncashed Checks, not Other Funds

Objectors are not proposing that this Court escheat unclaimed funds. On the contrary, the claims administrator is required by the various laws of the fifty states to turn over UNCASHED CHECKS to the various unclaimed property divisions. Each state has a separate limit, most \$25 to \$50. Checks are unconditional orders to pay. The money belongs to those claimants. If those checks are not cashed USUALLY DUE TO NON-DELIVERY OR RETURNED MAIL WITHOUT ANY ATTEMPT TO CONTACT THE CLAIMANTS, the ownership of the funds does not legally revert. Class Counsel, by settlement agreement, CANNOT CHOOSE TO VIOLATE THE LAWS OF THE STATES, all of which have civil and some have CRIMINAL penalties. It is against public policy to do so.

E. Class Counsel's Claims of Delay Should be Disregarded

This Court and Class Counsel should ask themselves, "Which will result in more delay— requiring Class Counsel and the claims administrator to do things correctly and give notice of deadlines before they expire, or forcing objectors to appeal the missteps and breach of fiduciary duty that occurred?" Obviously, requiring Class Counsel to post a notice of the deadline to request reissuance on the website AND assuring that all class members receive the same exact percentage of payout is more important than the delay that Class Counsel suggests is so burdensome. After all, it is Class Counsel and the claims administrator who chose to act in a cloak of secrecy, applying self-imposed deadlines that nobody knew about, and using language about the second pro rata distribution that no reasonably educated person could possibly understand.

F. CONCLUSION

Class Counsel and this Court need to assure that people who put in timely claims receive their compensation and that the amount of compensation does not vary based on irrelevant factors such as whether the class member RECEIVED their original check.

Respectfully submitted,



Stan Franklin

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A handwritten signature in cursive script, appearing to read "Scott Pierce".

Scott Pierce

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TO THE CLERK:

This was originally sent to the Court several weeks ago but was not docketed; therefore we are sending it again.



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