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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

SoulCycle Plans To Settle Gift Card Suit

By Matthew Perlman

Law360, New York (April 24, 2017, 4:19 PM EDT) -- A proposed class of consumers in a suit claiming SoulCycle Inc. sells illegally expiring gift certificates has reached an agreement in principle to settle with the company, according to a status report filed in California federal court on Friday.

SoulCycle and proposed class representative Rachel Cody filed a joint status report following an April 19 mediation session, saying that they had come to an agreement over a settlement. The report said they are working together on a final version of the agreement, and are also preparing a motion for preliminary approval of the settlement that they expect to submit on June 2.

In addition, they asked the court to vacate hearings scheduled for several motions pending before the court, including Cody's bid for class certification. Further details of the agreement were not disclosed.

Cody filed suit in **August 2015**, accusing the indoor fitness cycling company of defrauding customers by forcing them to buy gift certificates with short windows to enroll in classes and keeping the expired certificates' unused balances. The suit describes SoulCycle's business practices as a "relentless effort to maximize its profits" at the expense of customers, saying the company knows it's often difficult for customers to use their certificates within the allotted time frame, which can be as low as 30 days, because there's a scarcity in available classes.

According to the complaint, SoulCycle sold \$93 million worth of the certificates in 2014 and earned more than \$25 million through illegal expiration provisions.

Cody's claims for violations of the California Consumer Legal Remedies Act, unjust enrichment and breach of the implied covenant of good faith and fair dealing were **dismissed in January 2016**, but her claims for violations of the U.S. Electronic Funds Transfer Act and California's Unfair Competition Law survived.

SoulCycle had argued in its **motion to dismiss** that it sells classes on its website, not gift cards, and so it is not subject to the EFTA, but the court was not persuaded. The suit survived another **dismissal bid** in April of last year as well.

The sides were embroiled in a **discovery dispute** as recently as last month, with SoulCycle pushing to compel the production of documents related to Cody's past purchases of exercise sessions and to her travel to Ireland around the time she was scheduled to be deposed. SoulCycle argued that the documents should be turned over because they call into question her suitability as class representative.

Cody later agreed to turn over the documents, court records show.

Attorneys for SoulCycle and the proposed class did not immediately respond to requests for comment Monday.

Cody and the proposed class are represented by Daniel P. Hipskind and Dorian S. Berger of Berger & Hipskind LLP, and Nicholas Diamand of Lieff Cabraser Heimann & Bernstein LLP.

SoulCycle is represented by Shirli F. Weiss, Keara M. Gordon and Katherine J. Page of DLA Piper.

The case is Cody v. SoulCycle Inc., case number 2:15-cv-06457, in the U.S. District Court for the Central District of California.

--Additional reporting by Benjamin Horney, Joyce Hanson and Fola Akinnibi. Editing by Joe Phalon.