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SoulCycle Class Attys Nab \$1.8M Fees In Certificate Suit

By Matthew Guarnaccia

Law360, New York (October 4, 2017, 12:41 PM EDT) -- A California federal judge on Tuesday awarded nearly \$1.8 million to class counsel in a lawsuit accusing SoulCycle of selling illegally expiring certificates for its classes, while also signing off on a settlement between the class and the indoor cycling club worth as much as \$9.2 million.

U.S. District Judge Michael W. Fitzgerald approved the request for \$1.79 million by class counsel Berger & Hipskind LLP and Lief Cabraser Heimann & Bernstein LLP, which will be awarded separately from the settlement fund.

The deal resolves claims by SoulCycle customers accusing the company of requiring them to buy certificates to pay for classes that expired after only a limited amount of time. The settlement will allow approximately 150,000 potential class members to either reinstate up to two expired classes per customer or will reimburse those customers \$25 for each of those classes, and has a total value between \$6.9 million and \$9.2 million.

Judge Fitzgerald found the fee request by class counsel to be fair and reasonable, as it represents 25 percent of \$7.16 million — an estimate on the lower end of the settlement range.

The judge rejected the lone objection to the fees by class member Kerry Ann Sweeney, who argued the cash portion of the deal was minimal and that the class reinstatements acted as a coupon, meaning it does not fall in line with the Class Action Fairness Act.

"Because class members here may elect the 'cash option' or keep the 'cash-equivalent' of the reinstated classes, without spending any money of their own or receiving any 'discount,' this settlement is not a 'coupon settlement' and therefore not subject to CAFA's limitations on contingent fees," Judge Fitzgerald wrote.

The judge also awarded class representatives Rachel Cody and Lindsey Knowles \$5,000 incentive awards.

Judge Fitzgerald gave final approval to the settlement, which resolved the August 2015 lawsuit alleging SoulCycle defrauded customers by forcing them to buy gift certificates, referred to as series certificates, to enroll in courses. The certificates were valid for sometimes as short as a 30 day span, and SoulCycle would pocket the expired certificates' unused balances, the complaint said.

In addition to the cash or cash equivalent options contained in the **June settlement**, the company also agreed to adopt policy changes to ensure consumers fully understand that purchasing a course or series of SoulCycle courses does not constitute the purchase of a gift certificate or gift card.

Judge Fitzgerald noted that eight class members had opted out, and that there had been **two objections** to the deal itself from class members Marko Cavka and Lori Kilgannon, but that both had recently been withdrawn.

The judge still addressed the objections of Cavka and Kilgannon, who have their own lawsuits pending against SoulCycle. The objectors had argued that their cases dealt with "direct customer contracts" with the company instead of gift card purchases, and that the settlement class in the Cody case would preclude them from pursuing their claims.

Judge Fitzgerald noted that Cavka and Kilgannon withdrew their objections after reaching settlements with SoulCycle in their own cases, and that their actions reinforce the fact that their concerns were more with their own claims rather than the adequacy of the deal in the present case. The judge said he had raised this point while **denying a motion to intervene** in the case by Cavka.

Counsel for the parties did not respond Wednesday to requests for comment.

The customers are represented by Daniel P. Hipskind and Dorian S. Berger of Berger & Hipskind LLP and Nicholas Diamand of Lief Cabraser Heimann & Bernstein LLP.

SoulCycle is represented by Shirli F. Weiss, Keara M. Gordon, Chelsea N. Mutual 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.

--Editing by Emily Kokoll.