

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA RECEIVED SEP 14 2017

RACHEL CODY AND LINDSEY KNOWLES,  
individually and on behalf of all others  
similarly situated,

Plaintiffs,

Case No. 15-cv-6457-MWF-JEM

v.

SOULCYCLE INC.,

Defendant.

---

**OBJECTION OF KERRY ANN SWEENEY TO PROPOSED  
SETTLEMENT AND NOTICE OF INTENT TO APPEAR**

---

NOW COMES, Pro Se Objector, Kerry Ann Sweeney, Pro Se and  
hereby files these objections to the proposed settlement in this matter.

**PROOF OF MEMBERSHIP IN CLASS**

Upon information and belief Kerry Ann Sweeney (“Objector”) believes she  
is a member of the class as defined in that certain Legal Notice of Class Action  
Settlement which she received on July 11, 2017 via email ( the “Notice”). Her  
Claim No. is 00752402. Her address and telephone number are listed at the  
conclusion of this objection.

**NOTICE OF INTENT TO APPEAR**

Objector hereby gives notice that she does NOT intend to appear at the Fairness Hearing presently scheduled for October 2, 2017 at 11:30 p.m. PST before the Honorable Michael Fitzgerald, at the United States District Court for the Central District of California, Courtroom 5A, First Street Courthouse, 350 West First Street, Los Angeles, CA 90012.

**I. OBJECTOR IS A CLASS MEMBER**

As demonstrated in then Notice received by Objector, she is a class member with standing to object to the excessive fee request.

Objector joins and adopts the objection of any other objector to the extent it is not inconsistent with her own. She objects to any provision of the settlement that purports to limit the rights of objectors to object or to appeal an adverse ruling. Objection is made to any requirement or procedure to object that is not contained in the Notice and/or that is not satisfied here. Objector does not intend on attending the fairness hearing in person or through counsel and objects to the extent that requiring personal attendance at the fairness hearing would violate her due process rights and right to be heard on this objection.

## **II. REASONS FOR OBJECTING TO THE PROPOSED SETTLEMENT**

For the following reasons, inter alia, the Settlement Agreement is not fair, reasonable and adequate.

### **A. The Cash Portion of the Settlement is Minimal.**

Although Class Counsel estimates the value of the prospective value of the settlement to the class is valued between \$6.9 and \$9.2 million, the cash portion available to the Class is capped at \$500,000.00. the remaining value attributed to the settlement estimation is in the form of “certificates” or “classes”. To base requested attorney fees on the estimated value of the compensated “classes” is erroneous.

### **B. Most of the Settlement Consideration Comes in the Form of “Coupon-like” Relief.**

Although SoulCycle asserts that there is somehow a distinction between purchase of its “Classes” in this settlement the purchase of a gift card or coupon, as often used in other class action settlements, Defendant’s arguments are merely a word game attempting to “split hairs” in defining the benefit which is given to the class members and which might actually be use by a settling Class Member.

More accurately, Class Counsel has described Defendant's behavior in the Notice sent to Class Members. Therein, Class Counsel more accurately depicted SoulCycle's sale of indoor cycling Classes as "constitute[ing] the sale of "gift certificates" as defined under California and federal law and that the expiration dates contained on SoulCycle's Classes violate the Electronic Funds Transfer Act, 15 U.S.C. §1693, et seq., as amended by the Credit Card Accountability Responsibility and Disclosure Act of 2009 (the "CARD Act"), 15 U.S.C. § 1693i-1, and the California Gift Card Statute, California Civil Code Section 1750, et seq., as well as consumer statutes of California, including the California Consumer Legal Remedies Act and the California Unfair Competition Law".

In regard to coupon settlements Congress (vis-à-vis FACA) and the courts have been emphatic in their perspective in regards to coupon settlements

"As "guardians of the rights of absentee class members," *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116, 129 (2008) trial courts must determine whether proposed class action settlements are "fair, adequate and reasonable" to the class at large. *Acosta v. Trans Union, LLC*, 243 F.R.D. 377, 386 (C.D. Cal. 2007). In the wake of the federal Class Action Fairness Act of 2005 (CAFA) and recent federal and state court decisions, no other type of settlement has drawn greater scrutiny by trial courts conducting fairness hearings than so-called coupon settlements. This is the result of what CAFA's proponents claimed were abusive settlement practices that resulted in little value to class members but significant fee awards to class counsel. *Figueroa v. Sharper Image Corp.*, 517 F. Supp. 2d 1292, 1328 (S.D. Fla. 2007 ... Ultimately, any settlement with some

provision for nonmonetary compensation may be regarded as a coupon settlement. *See Yeagley v. Wells Fargo & Co.*, 2008 U.S. Dist. LEXIS 5040, at \*24 (N.D. Cal. Jan. 18, 2008) (reasoning that even if credit report did not qualify as "coupon," CAFA was nevertheless instructive). *See generally Synfuel Techs., Inc. v. DHL Express*, 463 F.3d 646 (7th Cir. 2006) (prepaid shipping envelopes similar to coupons); *Acosta*, 243 F.R.D. at 377 (credit reports compared to coupons); *Young v. Polo Retail, LLC*, 2007 U.S. Dist. LEXIS 27269 (N.D. Cal. Mar. 28, 2007) (gift cards); *In re Microsoft I-V*, 135 Cal. App. 4th 706 (2006) (vouchers); *Chavez*, 162 Cal. App. 4th at 46 (DVD subscription)... coupon settlements "have been severely criticized by commentators in the field" and "are strongly disfavored by the Attorneys General of most of the states." [*Id.* at 1321.]

Excerpts from Managing Class Action Litigation: A Pocket Guide for Judges Third Edition Barbara J. Rothstein & Thomas E. Willging

Whether it is called a voucher, coupon, ticket, receipt, check, chit, token **or a chip or any other name the piece of paper is exactly the type of instrument** Congress intended to be subject to the Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1712. Notwithstanding its name, the district court must scrutinize that portion of the attorney's fee and base it "on the value to class members of the coupons that are redeemed." *In re HP Inkjet Printer Litig.*, 716 F.3d 1173); § 1712 (e); *see also Synfuel Techs., Inc. v. DHL Express USA, Inc.*, 463 F.3d 646, 653–54 (7th Cir. 2006); *True v. Am. Honda Motor Co.*, 749 F.Supp.2d 1052, 1069 (C.D. Cal.2010).

**C. As a Result of the Settlement Structure the requested Attorney Fees are Excessive**



It is completely inadequate unfair to award attorney fees in the amount of \$1,800,000.00 when the cash value of the settlement is \$500,000.00 and the remaining portion is a coupon-like relief.

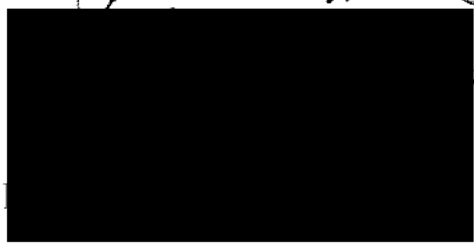
**CONCLUSION**

**WHEREFORE**, This Objector, for the foregoing reasons, respectfully requests that the Court, upon proper hearing:

1. Sustain these Objections;
2. Enter such Orders as are necessary and just to adjudicate these Objections and to alleviate the inherent unfairness, inadequacies and unreasonableness of the proposed settlement.
3. Award an incentive fee to this Objector for her role in improving the Settlement, if applicable.

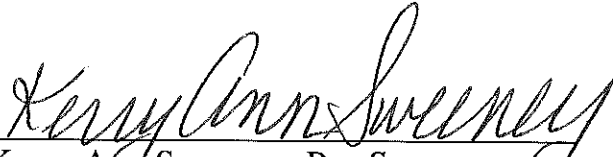

Dated: September 11, 2017

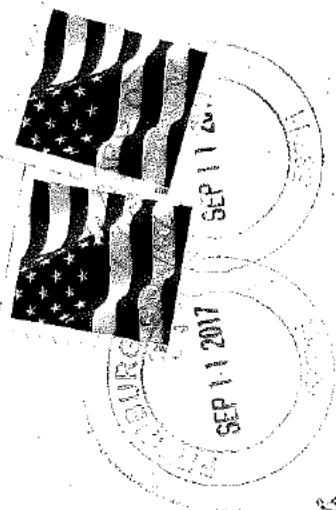
  
Kerry Ann Sweeney, Pro Se 



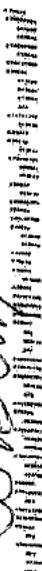
**CERTIFICATE OF SERVICE**

I hereby certify that on September 11, 2017 I caused to be filed the foregoing with the Settlement Administrator by having the foregoing deposited in First Class, U. S. Mail to the address of the Settlement Administrator included in the Notice.

  
Kerry Ann Sweeney, Pro Se  




*COPY v Souc Cycle Inc  
% Dan Administration  
P.O. Box 3614  
Milwaukee WI 53233-3614*



*SWEDEP*

