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Appeals Court Upholds Most of Pet Food Settlement

Posted: December 21, 2010, 5:20 p.m., EDT

A federal appeals court has upheld all but one of the terms in the \$24 million class action lawsuit settlement over melamine-contaminated pet food.



The term at issue involves a \$250,000 cap for product reimbursements claims. The four individuals who filed the appeal argued that the figure is "inadequate." The settling parties argued that the money was primarily for pet owners who had bought the recalled pet food back in 2007 but couldn't return the product because they didn't have a sales receipt.

The U.S. Court of Appeals for the Third Circuit, in a judgment issued Dec. 16, 2010, found that the lower court lacked the information necessary to evaluate the value and allocation of the purchase claims. The appellate court has ordered the case back to the U.S. District Court in New Jersey for the settling parties to provide more information related to the \$250,000 cap on reimbursements.

Lisa Rodriguez, one of the attorneys representing the class of pet owners, said the appellate court ruling is not a major setback.

"It basically says for us to expand the record with some of the information that we had when we were before the Third Circuit that we didn't have when we were before the district court," she said.

All in all, Kenneth Wexler, another attorney representing the class, said the appellate court had issued a positive decision.

"The fairness, reasonability and adequateness of the settlement in its totality, in our view, was affirmed by the court," he said.

"My only regret is that it didn't come sooner, because so many people have suffered delay in getting compensation," he added.

More than 24,000 claims were submitted by the Nov. 24, 2008, deadline, according to the appellate court decision, but the appeals case has delayed the disbursement of compensation. The case may finally come to an end once it returns to district court in New Jersey, but no court date has been set at this point.

"There's not a lot that has to be done in the way of briefing, so we're hopeful that we'll get a date early in the New Year so that we can finally put this thing to bed," Rodriguez said.

The case began in March 2007 when Menu Foods, of Ontario, Canada, recalled more than 50 brands of dog food and more than 40 brands of cat food after a number of pets became sick. Several other companies soon followed suit. The recall eventually covered approximately 180 brands of pet food and treats produced by 12 different manufacturers and distributed, marketed and sold to dozens of retailers.

Wheat gluten and rice protein concentrate imported from China was found to have been contaminated with melamine, an industrial chemical used to make plastic, and cyanuric acid—the combination of which can lead to acute renal failure in small animals.

In 2008, U.S. and Canadian courts approved the \$24 million settlement to cover claims and legal costs in both countries.

Attorneys representing the individuals who appealed the settlement could not be immediately reached for comment.

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