

Recent Second Circuit Opinion Underscores the Importance of Engaging Experienced Counsel to File and Perfect Class Action Claims

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The U.S. Court of Appeals for the Second Circuit (“Second Circuit”) recently issued an important decision concerning challenging the rejection of claims made by class members in settled U.S. class actions. *Contant v. AMA Cap., LLC*, No. 21-3058 (2d Cir. Apr. 14, 2023). In sum, the Second Circuit affirmed the decision of the U.S. District Court denying a class claimant’s (the “Claimant”) request for the court to overturn the claims administrator’s rejection of the Claimant’s claims. The Second Circuit’s decision is noteworthy for the many institutional investors who file claims in settled securities and antitrust class actions in furtherance of their fiduciary duties. Thousands, if not millions, of dollars can be lost if institutional investors fail to timely and adequately respond to deficiencies with their claims and audits conducted by the claims administrator.

The case arises from the 2020 settlement of antitrust class claims brought on behalf of indirect purchasers of foreign-exchange products. As is typical, the settlement agreement required each class claimant to submit a proof of claim and provide “such documents or proof as Class Counsel and the Claims Administrator, in their discretion, may deem acceptable.” Op. at 6. Each claimant also had the option of (1) relying on records obtained by Class Counsel to substantiate its claim (so-called “Option One Claims”), or (2) completing an “Option Two Claim Form Spreadsheet” listing its transactions and “submitting detailed transaction records to support its claims. According to the Second Circuit’s opinion, the Claimant filed a proof of claim with an Option Two Claim Form listing over 17 million transactions, but did not provide any transactional documents to corroborate those transactions.

In the subsequent weeks, according to the opinion, Class Counsel repeatedly informed the Claimant that its submissions were deficient because they lacked the documentation needed to substantiate the transaction data the Claimant had provided. In response, the Claimant submitted “exemplars” of some documentation.

After consulting with subject matter-experts, the Claims Administrator determined this documentation fell short of substantiating the claim, and issued an assessment that approved in part and rejected in part the Claimant’s claims. According to the opinion, “the Claims Administrator found that [the

Claimant] had not provided documentation necessary to validate the overwhelming majority of its claims.” The Claimant submitted additional documentation in response to the Claims Administrator’s rejection, and then disputed the rejection with Class Counsel.

When Class Counsel could not resolve the dispute, the Claimant requested the district court’s review when the dispute could not be resolved. The district court agreed with the Claim’s Administrator’s assessment, finding that all of the claims denied by the Claims Administrator were “denied because they all lacked the detailed transactional records as required by the Settlement Agreement.” Op. at 9. The Claimant then moved for reconsideration, arguing the court failed to take into account the documentation the Claimant had submitted after it received the Administrator’s rejection. The court rejected this argument as well, reasoning that “the process of contesting a rejected claim should be viewed as the functional equivalent of a motion for reconsideration and not a chance to reopen the claims process in its entirety by permitting the submission of new evidence previously available to the claimant.” Op at 10. The Claimant appealed.

In its opinion, after ruling that, as a class member, the Claimant had standing to appeal without formally intervening in the action, the Second Circuit held that the district court did not err when it declined to consider documentation provided by the Claimant after the Claims Administrator had issued its formal rejection. The Second Circuit looked to the terms of the Settlement Agreement, and concluded “the express terms of the Settlement Agreement permit claimants the opportunity to ‘*remedy* the curable deficiencies’ in their claims ‘prior to rejection’... and ‘to *contest* such rejection... after’ the Claims Administrator issued its assessment.” Op. at 14. Thus, according to the Second Circuit, while a Claimant could “remedy” any deficiency prior to rejection, after rejection a Claimant could only “contest” the determination by identifying “mistakes” or “wrongs” made by the Claims Administrator based on the documentation already provided. Op. at 15.

Next, the Second Circuit affirmed the district court’s conclusion that the Claims Administrator rightfully denied the majority of the claim. Again, the Second Circuit looked to the terms of the Settlement Agreement, which provided that each claimant must submit “such documents or proof as Class Counsel and the Claims Administrator, in their discretion, may deem acceptable.” Op. at 18. In this case, according to the Second Circuit, the district court needed to base its allocation of the settlement fund, including the rejection of the Claimant’s claims, on “the comparative strengths and weaknesses of the asserted claims.” The Second Circuit concluded that the district court properly relied on “the assessment prepared by the Claims Administrator, which comprehensively identified the defects in [the Claimant’s] claims” in making this allocation.

There are several key takeaways from this decision. First, it does not appear that the Claimant used experience counsel in filings its claims and responding to the documentation requests issued by the Claims Administrator. Second, any class member asking a court to overturn a rejection by a Claims Administrator based on allegedly insufficient documentation will face an uphill battle, as class counsel and courts will give broad deference to the Claims Administrator’s determination regardless of the class member’s burden in complying with documentation requests. Third, it is vitally important to provide all supporting documentation either with the proof of claim form or during the deficiency process because, once a Claims Administrator issues a rejection, a reviewing court may not consider any documentation submitted after such rejection issues.

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