

A Lesson from Norms: California Retailers Must Honor Cash Redemption Requests for Gift Cards with Balances of Less Than \$10

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Recently, a California state court issued a final approval of a class action settlement on behalf of a class of California consumers in a gift card case that serves as a reminder that California's gift card statute mandates that cards with balances of less than \$10 are redeemable for their cash equivalents.

One of the more appealing aspects of California's gift card statute for the plaintiffs' class action bar may be the redemption of remaining balances on gift cards for cash. Section 1749.5(b)(2) states that "any gift certificate with a cash value of less than ten dollars (\$10) is redeemable in cash for its cash value." Since California's gift card statute was amended to include this provision in 2007, plaintiffs' lawyers have filed dozens, if not more, of lawsuits related to gift card redemptions in California state and federal courts. These lawsuits often stem from compliance programs that fail to address the amendment or employees who are unaware of the amendment and who refuse to redeem applicable gift cards.

Factual Background

In *Martinez v. Norms Restaurants, LLC*, No. RIC1512432 (Cal. Sup. Ct. Oct. 16, 2015), the plaintiff alleged that he visited a California Norms Restaurant location and used a gift card to purchase items at the restaurant. With a remaining balance of less than \$10 on the gift card, the plaintiff alleged that he "did not want any other items offered by [Norms Restaurants]," he "wanted the cash value of the gift card," but upon requesting the cash balance on the card, he was informed that he "could *not* get the balance in cash and the balance had to remain on the card for future use at Norms Restaurants."

Plaintiff's complaint further alleges that pre-filing investigations were conducted to determine whether the plaintiff's experience was an isolated incident or a pervasive issue. Plaintiff alleged that the results of the investigation "revealed that Norms Restaurants employees *consistently* refused to honor valid requests for cash back on gift cards with a balance of less than \$10." Against this backdrop, the plaintiff filed a putative class action in California Superior Court alleging violations of

California's Gift Card Law, Consumer Legal Remedies Act and Unfair Competition Law, as well as a common law claim of unjust enrichment.

Rather than engage in extensive motions practice, the parties entered into mediation that culminated in a class-wide settlement. The settlement, which received final approval, established a class consisting of:

All consumers in California who (1) possess a Norms Restaurants gift card which has a balance of less than \$10.00 that was originally issued and/or activated between January 1, 2008 and December 31, 2015, or (2) possessed such a gift card that was originally issued and/or activated between January 1, 2008 and December 31, 2015 but disposed of it upon being informed by a Norms Restaurant employee in California that it could not be redeemed for cash.

The Settlement

The settlement reached by the parties provides class members, who claim to have disposed of a gift card with a balance of less than \$10 as a result of being informed by a Norms Restaurants employee that redemption for cash was not permissible, with a \$9.99 gift card that can be used at any Norms Restaurants in California *or* redeemed for cash. In addition, the settlement requires Norms Restaurants to implement the following compliance practices:

- Thoroughly review its policies and practices regarding gift card redemption and update its employee manuals to state that "California law requires that a gift card must be redeemed for cash, upon a customer's request, when the gift card balance falls below \$10" or similar language.
- Hold at least one training session for its existing guest-facing employees in its California locations for purposes of reviewing gift card redemption policies.
- Instruct new employees that California law requires that a gift card must be redeemed for cash, upon a customer's request, when the gift card balance falls below \$10.
- Post a reasonably sized notice in an employee-only area for 24 months stating the following or similar language: "California law requires that a gift card must be redeemed for cash, upon a customer's request, when the gift card balance falls below \$10."
- Post a notice to its customers in each of its California locations for 24 months, stating that "Norms Gift Cards with balances of under \$10 (\$.01 - \$9.99) will be redeemed for cash, upon request."
- Publish the following or similar language for 24 months on its "Gift Card" web page: "Norms Gift Cards with balances of under \$10 (\$.01 - \$9.99) will be redeemed for cash, upon request."

Takeaways

Norms Restaurants serves as a reminder that the plaintiffs' class action bar continues to pursue claims related to California's gift card redemption provision in earnest, even investigating whether businesses are complying with the provision by attempting to redeem gift cards with balances below \$10. In addition, the settlement terms provide businesses with compliance practices that, if not already implemented, are worth considering in order to prevent similar lawsuits in the future.

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