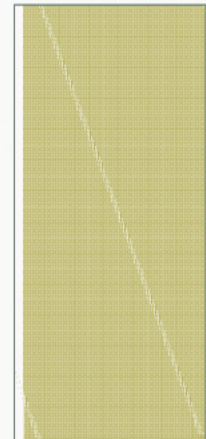


GENERAL DEVELOPMENTS IN CLASS ACTION LAW

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NORTHERN DISTRICT PRACTICE PROGRAM
2018 CIVIL LAW SYMPOSIUM: CLASS ACTIONS
SEPTEMBER 13, 2018

RECENT DEVELOPMENTS: ASCERTAINABILITY

- Ninth Circuit has rejected the requirement of a “administratively feasible” means of identifying absent class members. *Briseno v. ConAgra Foods, Inc.*, 844 F.3d 1121 (9th Cir. 2017).
- But the Third Circuit in *Carrera v. Bayer Corp.*, 727 F.3d 300, 308 (3rd Cir. 2013) held that a plaintiff must also “demonstrate his purported method for ascertaining class members is reliable and *administratively feasible*.”
- Most Circuits have followed the Ninth. See, e.g., *In re Petrobras Sec.*, 862 F.3d 250, 265 (2d Cir. 2017) (expressly rejecting the heightened standard); *Rikos v. Procter & Gamble Co.*, 799 F.3d 497, 525 (6th Cir. 2015) (same); *Mullins v. Direct Dig., LLC*, 795 F.3d 654, 657 (7th Cir. 2015) (same).

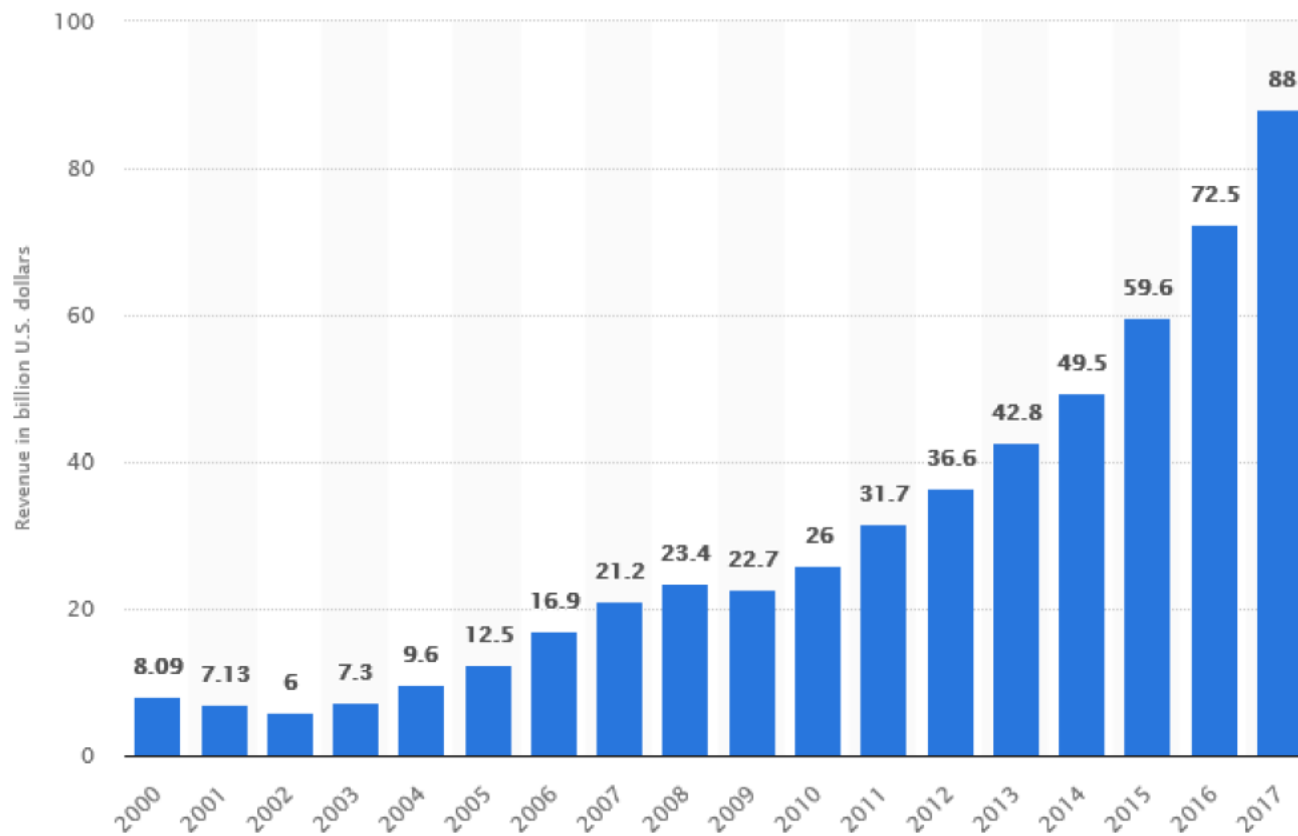
RECENT DEVELOPMENTS: PREDOMINANCE

- But have settlements become more difficult?
- *In re Hyundai and Kia Fuel Economy Litigation*
 - What do litigants need to show to have a settlement class certified?
 - The panel decision has been depublished pending rehearing *en banc*

RECENT DEVELOPMENTS: SETTLEMENTS

- Supreme Court has granted cert in *Frank v. Gaos.*, 869 F.3d 737 (9th Cir. 2017)
 - \$8.5 million in *cy pres* with no funds to the class
 - Privacy violations by Google
 - One of the objections: if distribution to class members is infeasible, then class certification is improper

ONLINE ADVERTISING REVENUE IN THE UNITED STATES FROM 2000 TO 2017

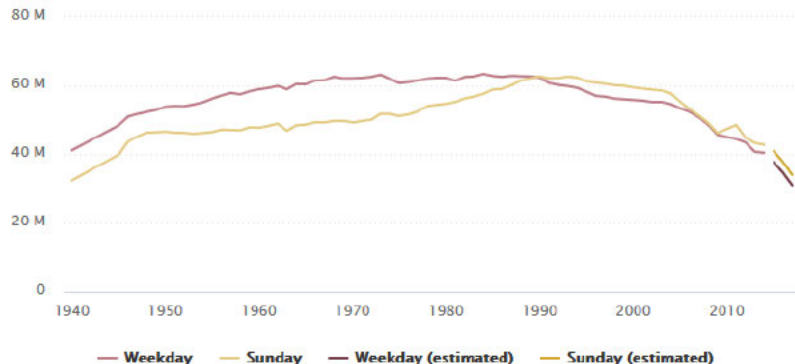


CONSIDER THE APPROPRIATENESS OF PUBLICATION NOTICE

Total estimated circulation of U.S. daily newspapers

Chart Data Share Embed

Total circulation of U.S. daily newspapers



If you own or owned a home or structure with Weyerhaeuser hardboard siding, a proposed class action settlement may affect your rights.

You may be entitled to file a claim for monetary compensation.

A proposed nationwide settlement of class action lawsuits related to Weyerhaeuser brand exterior hardboard siding has been reached in *Williams, et al., v. Weyerhaeuser Company*, Civil Action No. 995787, and preliminarily approved by the Superior Court of California in and for the County of San Francisco (the "Court"). This Notice is a summary. You may call toll free or visit the website to obtain a Mailed Notice with more information.

The proposed Settlement will pay current and former owners of homes or other structures for damages associated with their Weyerhaeuser hardboard siding.

WEYERHAEUSER HAS AGREED TO PAY ALL TIMELY CLAIMS FOR SIDING DAMAGE THAT QUALIFIES FOR COMPENSATION UNDER THE SETTLEMENT AGREEMENT.

You are a member of the Class if you own or owned a structure in the United States on which Weyerhaeuser brand hardboard siding has been installed from January 1, 1981 through December 31, 1999. The Mailed Notice identifies certain exclusions from the Class including personal injury claims.

How to identify Weyerhaeuser hardboard siding

You may ask the builder of your property, or remove a piece of the siding to see whether "AIA 10" or "AIA 20" is stamped on the back, or take it to your local building supply store, which may be able to assist you. Weyerhaeuser hardboard siding was made from wood fiber, wax and resin, distributed in both lap (board) and panel (sheet) applications, and was available in various external textures designed to look like conventional wood siding.

How to file a claim

The Settlement establishes a claims process to pay monetary damages for valid claims for certain damage to siding, including thickness swell, edge checking, physical degradation, buckling, surface wetting, swelling, delami-

nation, sponginess, wax bleed, and raised or popped fibers. Siding damage attributable to improper design or installation will be excluded. The Settlement also provides a compensation formula which will be used to determine how much money, if any, you are entitled to receive.

THERE IS NO CAP ON THE TOTAL NUMBER OF CLAIMS OR MONETARY DAMAGES TO BE PAID.

The Settlement Agreement provides a staggered claims program. Under these guidelines, the later your siding was installed, the more time you have to file a claim. The Mailed Notice describes how to prove that your property has Weyerhaeuser hardboard siding. You may call or visit the website to receive the Mailed Notice or request a Claim Form.

The Court will hold a hearing on December 21, 2000, to consider whether to grant final approval to the proposed Settlement and Class Counsel's request for attorneys' fees and costs. The fees will be tied to the total claims paid, but will not reduce any class member's recovery under the Settlement. You have the right to appear at the hearing, although you do not have to.

You may comment on, or object to, the terms of the proposed Settlement by November 13, 2000. The Mailed Notice describes how to submit comments or objections.

If you do not wish to participate in or be bound by the proposed Settlement, you must exclude yourself as described in the Mailed Notice, by November 13, 2000, or you will be barred from prosecuting any legal action against Weyerhaeuser relating to the settled claims. If you exclude yourself, you may NOT file a claim and you will not receive compensation under the Settlement.

For a Mailed Notice or to request a Claim Form call toll free 1-800-365-0697 or see the website at www.weyerclaims.com. You may also write to Weyerhaeuser Claims, P.O. Box 9443, Garden City, NY 11530-9443. PLEASE DO NOT CONTACT THE COURT.

1-800-365-0697

www.weyerclaims.com

LEGAL NOTICE

Parade's Special Intelligence Report

A Crimson Parachute?

There have been rumors printed that if Hillary Rodham Clinton loses her U.S. Senate race in New York, she has a good shot at the presidency—of Harvard.

that is. Well, forget it. Mrs. Clinton, 52, has an interest in education and a law degree (from Yale), but insiders at the school say she isn't even in contention to wear Harvard's crimson gown. A university spokesman tactfully told us, "The First Lady seems pretty tied up right now and hasn't expressed any interest in the job," for which there are more than 1000 potential candidates.



Mrs. Clinton on the campaign trail

New American Family

If you don't have a child at home, you're in the majority. Today, just 34% of U.S. households have kids under the roof. And that isn't all that's changing in American family life. Fewer couples are marrying, reports Rutgers University's National Marriage Project—and more than 50% of those who do wed for the first time are living together before they tie the knot. Single motherhood is also a growing option. Indeed, unmarried moms now account for 33% of births in the U.S. (And more are "never-married" rather than divorced.) These statistics are sure to fuel debates over parental leave, day care and other major social issues for years to come.

Time To Get Your Cat

Beginning next week, you'll see something like this in PARADE:

It's called a ".cue." and it will connect you to a related Web site when scanned with a handheld device called a .CueCat. For more information or to learn how to get a .CueCat, visit www.getcuecat.com on the Web.

NOTICE IN DAMAGES CLASSES



- **Direct notice**

- Email to all possible class members
- Phone numbers / text messaging – the way of the future?
- Postcards – consider whether cost effective and necessary



- **Indirect notice**

- Online: Facebook / banner campaigns
- Press Releases
- Attorney interviews



- **Settlement Webpage**

- Get creative!
- www.reversethecharge.com
(Lithium Ion Batteries overcharge)

DESIGN YOUR NOTICE PROGRAM

- Seek bids from multiple vendors.
- Negotiate down the proposals.
The first price is not the last price.
- Be aware of hourly charges for undefined projects.



Think about your long term goals:

- **Damages Classes:** Converting notice to claims being made on the settlement fund

CONSIDER SIMPLER NOTICE

This is constitutional.

Important Notice from the United States District Court for the Northern District of California About a Class Action Settlement
Case 4:08-cv-02820-CW Document 220 Filed 01/03/13 Page 15 of 20

Para ver este aviso en español, visita www.easportslitigation.com

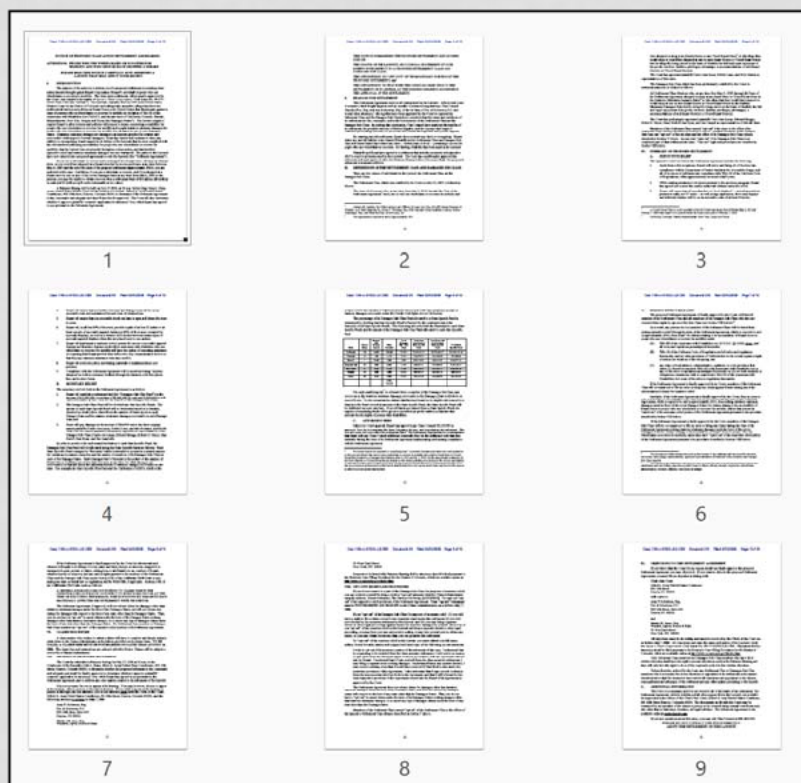
If you bought a new copy of an Electronic Arts' Madden NFL, NCAA Football, or Arena Football videogame for Xbox, Xbox 360, PlayStation 2, PlayStation 3, GameCube, PC, or Wii, with a release date of January 1, 2005 to June 21, 2012, you may be a class member and may be entitled to benefits from a proposed settlement.

A proposed settlement has been reached in a class action alleging that Electronic Arts overcharged consumers for certain football videogames. Electronic Arts denies any liability and all allegations of misconduct, including that it overcharged consumers. **The sole purpose of this notice is to inform you of the class and the proposed settlement so that you may decide what to do.**

If the settlement is approved, class members who submit a Claim Form may receive a payment. Class members may also choose to exclude themselves from the settlement or object to the settlement.

For a full description of the settlement, related Court documents, and deadlines and forms, please visit www.easportslitigation.com. Claim Forms are due **March 5, 2013**. Requests to exclude yourself from the settlement are due **December 10, 2012**, and any objections to the settlement are due **December 10, 2012**. You can file a claim online or get a Claim Form at www.easportslitigation.com. Please do not telephone or address inquiries to the Court or Electronic Arts.

So why do we send this?



Actual notice proposed by OC, approved, and sent in Kmart ADA Title III settlement.

CONSIDER GRAPHICS/LOGOS

BARNES & NOBLE

[Find Your Local B&N Store](#)

Dear [customer name],

You previously received an email informing you that you have a new credit in your Barnes & Noble account as a result of a redistribution of the Apple Settlement. We're happy to let you know that your settlement credit for \$[xx.xx] is now in your Barnes & Noble account and ready to use.

You can use your credit toward books, eBooks, and more in any of our channels—online, on NOOK®, or in store.

Start using your credit and learn more about the settlement:

[CLICK HERE](#)

If you would like to shop with your credit at any Barnes & Noble store, print out the certificate below. This certificate includes a certificate number, pin and bar code.



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ELECTRONIC DISTRIBUTION MAY BE CHEAPER AND MORE EFFECTIVE



THE FUTURE OF DIGITAL SETTLEMENTS

NOTICE AGGREGATORS

“We tell you about **cash** you can **claim** every week!
Subscribe to our free newsletter today.”

<https://topclassactions.com/lawsuit-settlements/open-lawsuit-settlements/>

“CLAIM YOUR CLASS ACTION SETTLEMENT MONEY TODAY 1. Find products you purchased. 2 Fill out the claim form. 3 Get your check in the mail.”

<https://www.classactionrebates.com/>

“These 8 Class-Action Settlements Are Easier to Catch than a Leprechaun”

<https://www.thepennyhoarder.com/deals/march-class-action-settlements-2018/>

NOTICE AGGREGATORS

“No Proof Required Class Action Lawsuit Settlements – September 2018. In this post, we will list out all of the Best Class Action Lawsuit Settlements that require no proof of purchase, receipts, etc.”

<http://www.hustlermoneyblog.com/no-proof-required-class-action-lawsuit-settlements/>

“Did you know fellow readers are constantly getting checks from no proof of purchase settlements recently? Get in on the free cash with class action settlements that don't require any proof of purchase, and if you do have proof of purchase, you can get even more cash in most cases!”

<https://yofreesamples.com/samples-without-surveys/class-action-cash-settlement-claims-without-proof-of-purchase/>