



WHITE PAPER

June 2024

Rising Fraudulent Claims Submitted to Class Action Settlement Funds Heighten Settlement Risk

Consumers frequently receive only a paltry fraction of class action settlement funds, which are instead doled out to plaintiffs' lawyers, *cy pres* recipients, and administrators.

Now this problem is compounded by a recent development: an explosion in fraudulent claims submitted to claims administrators. One claims administrator recently reported that it received 80 million fraudulent claims in 2023, an increase of 19,000% since 2021. This disturbing rise correlates with a transition from paper processing systems to digital systems using vendors such as Zelle, PayPal, and Venmo. Fraudsters appear to be using bots operating in foreign countries and other methods to submit fictitious claims. In several instances, this has resulted in claim numbers far exceeding the estimated class size.

In light of these developments, defendants must take measures to mitigate risk. We propose several strategies. First, use capped settlements to protect against runaway costs and claims that far exceed estimated class size. Second, employ a sophisticated claims administrator with verifiable fraud control systems. Third, negotiate risk-shifting terms in the administrators' agreement. Fourth, include provisions in the settlement agreement enabling the parties and administrator to identify and reject claims with significant indicia of fraud.

Most of the money paid into class action settlement funds is never paid out to class members. Empirical research, including research conducted by Jones Day, has shown that most settlement funds are instead distributed to class counsel, *cy pres* beneficiaries, and others. The utility of class action litigation as a means of compensating class members, always questionable, has been further diminished by a new development: a tidal wave of bogus claims submitted to the administrators of the settlement funds by scammers who are pretending to be class members.

As claims administration has gone from a paper process to a primarily digital process, the ability of criminals to submit fraudulent claims has increased exponentially. Anecdotal evidence of increasing fraud has been building for some time. Hard numbers arrived with a recent report from Digital Disbursements, a company that administers the distribution of settlement funds. Digital Disbursements reports that in 2023, it received more than 80 million claims “with significant indicia of fraud”—up over 19,000% from 2021, when that company received fewer than half a million such claims.¹

Settling defendants should take precautions to mitigate the risk from fraudulent claims.

HISTORICAL BARRIERS HAVE PREVENTED CLASS MEMBERS FROM RECEIVING MOST CLASS SETTLEMENT FUNDS

As previously analyzed in Jones Day *White Papers*,² and as detailed in a forthcoming law review article written by a Jones Day partner,³ consumers frequently receive only a paltry fraction of class action settlement funds—if anything at all. There are numerous reasons for this:

- Significant portions of the settlement funds are paid to class counsel for their fees and expenses.
- Additional funds are paid to the companies that provide notice to the class, process claims from class members, and disburse payments.
- In many class actions, much of the settlement funds are distributed “*cy pres*” to charities or other entities that are not class members.

- In most class actions, class members do not receive any compensation unless they submit a claim form—and only about 9% of class members make this effort.⁴
- Many class members who are sent checks never cash them. The check-cashing rate is only 77% for class members who submitted a claim form, and even lower—55%—for class members who received checks in “direct payment cases” that do not require the submission of a claim.⁵

As a result, when settlements result in a monetary award, only a small fraction of class members typically receive any monetary benefits, and class members as a whole received only a fraction of the overall award.⁶

THE ADVENT OF DIGITAL PAYMENT PLATFORMS, AND THE EXPLOSION OF FRAUDULENT CLAIMS: FROM AI BOTS TO CLICK-FARMS

Before digital payment methods became available, class members entitled to monetary settlements typically received paper checks. Today, as U.S. District Judge James Donato recently remarked, “everyone’s life is online.”⁷ These days, it is typical for claims administrators to use digital vendors such as Zelle, PayPal, and Venmo for payment distribution. Using these digital payment platforms, claimants can now receive the monetary benefit of class settlements directly to their e-wallets instead of having to receive and cash a physical check delivered by mail.⁸ The hope was that digital distributions would make settlements more accessible for consumers, increase the rates at which consumers submit claims, streamline payments, and lower administrative costs. Unfortunately, growth in technology comes with growth in misuse.

Digital Disbursements reports that in 2023, it was retained to provide digital payment processing in 323 cases, up from 80 in 2021.⁹ Over the same time period, suspected fraudulent claims in class action settlements rose over 19,000% from roughly 422,000 to more than 80 million.¹⁰ Digital Disbursements does not directly state the percentage of claims that are fraudulent. But it indicates that it received about 135 million total claims in 2023—which would mean that *most* of the claims it received bore “significant indicia of fraud.”¹¹

Digital Disbursements has identified dozens of indicia of fraud. Perhaps the most significant indicator is multiple claims with the same payment destination, the occurrence of which increased by more than 27,000% from 2020 to 2023. Another is the submission of thousands of claims with recently created e-mail domains. Between 2021 and 2023, Digital Disbursements noted a 19,000% increase in claims associated with (i) e-mail domains under three years of age and (ii) at least one other indicator of fraud.

Even before Digital Disbursements quantified the trend, there were anecdotal reports of massive fraud in recent cases.

- In a case involving Artsana, a maker of child car booster seats, more than 3.3 million claims were submitted, even though the estimated class size was only 875,000.¹² The claims administrator's analysis showed that scammers used sophisticated methods to generate large numbers of fraudulent claims.¹³
- In Celsius's \$7.8 million class settlement, 49% of submitted claims were determined to be fraudulent. Fraudulent methods included filing multiple claims from a single IP address or with the same digital payment account information.¹⁴
- In Godiva's \$15 million claim-based settlement, 47% of all submitted claims were later found to be fraudulently manufactured through a bot operating in a foreign country.¹⁵

THE IMPACT ON CLASS ACTION SETTLEMENTS

The increase in fraudulent claims may impact the utility of consumer class action settlements in two significant ways. First, fraudulent claims will directly dilute individual claim value in capped settlements, which will further reduce the amount of funds ultimately available to the allegedly aggrieved consumers. Second, fraudulent claims can significantly increase administration fees (particularly where such fees are based on a per-claim basis). This could also reduce the overall pot for settlement payments or, where administrative costs are paid outside of the settlement fund, expose the parties to significant unanticipated costs.

MITIGATING THE RISK

There are ways for companies to mitigate the risks associated with fraudulent claims in class settlements. Settling defendants should consider the following strategies:

- Using capped settlements will safeguard the companies from unexpected costs arising from an influx of bot-made or click-farm-generated fraudulent claims.
- Employing a sophisticated administrator with verifiable fraud controls is crucial. Check the administrator's anti-fraud procedures—such as reCAPTCHA, address verification, and payment verification—to ensure the use of robust tools to block fraudulent claims.
- Consider negotiating risk-shifting terms in the administrators' agreement regarding fees and costs incurred as a result of fraudulent claims.
- Consider including provisions in the settlement agreement and proposed approval orders enabling the parties and settlement administrator to identify and reject claims with substantial indicia of fraud as part of the administration process and without the need to obtain further approvals from the court.
- Settling parties should also consider proactively advising the court about the potential for fraudulent claims and the need for such provisions to allow them to reasonably address such claims and best ensure the settlement proceeds go to legitimate class members.

Settlement administrators should constantly reassess their security measures to ensure they are equipped to minimize and weed out fraudulent claims. Requiring a verifiable physical address instead of a mobile number or digital payment information could be the next step.

CONCLUSION

The sudden increase in fraudulent claims poses an additional threat to the longstanding problem of settlement fund dilution. All stakeholders must make diligent efforts to assess the risks they face and take mitigating actions to stem potential damage.

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ENDNOTES

- 1 Digital Disbursements and Western Alliance Bank, “2024 Annual Report: Digital Payments in Class Actions and Mass Torts” (April 2024).
- 2 Jones Day, “[An Empirical Analysis of Federal Consumer Fraud Class Action Settlements \(2010–2018\)](#)” (2020); Jones Day, “[Update: An Empirical Analysis of Federal Consumer Fraud Class Action Settlements \(2019–2020\)](#)” (2021).
- 3 Jonathan B. Berman, “[Professional Plaintiffs and Incentive Awards: An Empirical Analysis of the Judicial Policy of Paying Plaintiffs to Serve as Class Representatives](#),” 92 Tenn. L. Rev. (forthcoming 2025).
- 4 Federal Trade Commission, “Consumers and Class Actions: A Retrospective and Analysis of Settlement Campaigns” at 11 (Sept. 2019).
- 5 *Id.* at 31.
- 6 “Update: An Empirical Analysis of Federal Consumer Fraud Class Action Settlements (2019–2020)” at 1 (“in claims-made settlements, class members as a whole receive on average less than 30% of any monetary award”); *id.* at 9 (across all settlements, class members received about 39% of the total awards).
- 7 Amanda Bronstad, “[An Influx of Bad-Faith Actors: How Payment Apps, Chat Bots Are Changing Class Action Settlements](#),” Law.com (June 5, 2023), quoting remarks made at the 2023 Class Action Law Forum.
- 8 Scott M. Fenwick, “[E-Payments in Class Action Settlements](#),” Kroll (July 7, 2020).
- 9 Digital Disbursements, *supra* note 2, at 14.
- 10 *Id.* at 5.
- 11 A total of 52,655,441 claims from certain email domains “represented approximately 39% of all claims submitted in 2023” (*id.* at 11), implying that there were about 135 million claims in all.
- 12 Diana Novak Jones, “[Scammers Flood US Class Action Settlements with Fraudulent Claims](#),” Reuters (May 2, 2024).
- 13 Declaration of Steven Weisbrot, Esq. Regarding Preliminarily Eligible Products Claimed at 3, *Jimenez v. Artsana USA, Inc.*, No. 7:21-cv-07933 (S.D.N.Y. Sep 25, 2023), ECF 82.
- 14 Declaration of Settlement Administrator Jordan Turner Regarding Notice of Completion of Duties, *Hezi v. Celsius Holdings, Inc.*, No. 1:21-cv-9892 (S.D.N.Y. Dec. 29, 2023), ECF 58-1.
- 15 Ross Weiner, “[The Increasing Danger of Fraudulent Claims in Class Action Settlements](#),” *New York Law Journal* (July 26, 2023); Plaintiff’s Status Report re: December 20, 2022, Conference at 2, *Hesse v. Godiva Chocolatier, Inc. et al.*, No. 1:19-cv-00972 (S.D.N.Y. Dec. 16, 2022), ECF 154.

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