

Judge Denies Proposed Settlement In False Advertising Class Action Regarding Fuel Economy

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[Amanda M. Fielder, Janet L. Ramsey](#)

Class action lawsuits notoriously provide plaintiffs with minimal damages. This very fact prompted a federal judge in California to reject recently a proposed settlement of a class action lawsuit between Honda and owners of its Civic Hybrid who felt they were misled about fuel economy. The proposed settlement — which only provided consumers with rebates for future purchases but included almost \$3 million in attorneys' fees — provided too little value for the plaintiffs.

THE PROPOSED SETTLEMENT

The suit was filed in 2007 on behalf of more than 150,000 owners of Civic Hybrids who alleged that they were exposed to false and misleading advertising regarding the fuel economy of the Civic Hybrids and relied on these misrepresentations when they paid a "Hybrid premium" of approximately \$7,000. After several months of discovery, motion practice and mediation, the parties reached a proposed settlement agreement.

The proposed settlement offered Honda Hybrid owners one of three options.

- A \$1,000 rebate on the purchase of certain new Honda or Acura vehicles before October 31, 2011, if the owner traded in his/her current Civic Hybrid;
- A \$500 rebate on the purchase of a new Honda, if the owner kept his/her current Civic Hybrid; or
- A \$100 refund, but only if the owner made a documented complaint about fuel economy before March of 2008.

Notably, the rebates did not apply to Honda's most fuel-efficient models.

JUDGE SAYS 'NO'

Opposition to the proposed settlement was overwhelming and included objections from several Honda Hybrid owners, the Center for Class Action Fairness in Washington, and 25 attorneys general, including those in Illinois, Michigan and Ohio. To these challengers, the settlement seemed like a marketing incentive for Honda to sell more cars, but provided little benefit to the Honda Hybrid owners.

The judge noted that the proposed settlement was "patently unfair" because it drew an arbitrary distinction between Honda Hybrid owners with identical claims and injuries and provided too little value to them. A complete copy of the judge's opinion can be found [here](#).

If you have any questions about advertising or marketing law, please contact Warner Norcross & Judd attorneys, Amanda Fielder (afielder@wnj.com or 616.752.2404) or Janet Ramsey (jramsey@wnj.com or 616.752.2736).