

## \$2M Settlement for Retailer Loyalty Program

Staples, Inc. recently agreed to pay up to \$2 million (plus attorneys' fees) to settle a federal class action lawsuit alleging that elements of its Staples Rewards loyalty program were deceptive. The complaint asserted Staples misled its loyalty program customers by calculating program points on transactions involving coupons in a manner that was different from what was promised in the advertising and terms for the loyalty program.

The complaint alleged Staples spread coupon values over an entire transaction and calculated loyalty program points accordingly, instead of applying the coupon value only to the item to which the coupon applied. For example, the plaintiff claimed he bought two packets of sanitizing wipes for \$3.99 each and a package of bottled water for \$4.49. He used a \$1.50 coupon with the bottled water purchase, and acknowledged that the bottled water did not qualify for any points under the rewards program terms. He asserted that he should have received \$7.98 in rewards points for the transaction due to the value of the two packets of sanitizing wipes. Instead, he alleged, he received only \$7.02 in rewards program points because the value of the \$1.50 coupon was deducted pro rata from all of the items in his transaction for reward program calculation purposes.

In the preliminary settlement, which is subject to court approval, Staples agreed to change its terms and conditions for product-specific coupons to make it more clear how such coupons impact its loyalty program calculations. Staples also agreed to pay \$10 to each affected class member who files a valid claim.

**Key Takeaway:** Advertising and terms for loyalty programs should be clear, accurate, and aligned with actual in-field practices. Loyalty program operators should consider scheduling periodic check-in meetings with representatives from all relevant internal stakeholders (legal, marketing, IT, store operations, accounting, etc.) to confirm that public-facing loyalty program materials like advertising and program terms accurately reflect current company practices.