

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

JASON RINALDI, ET AL.,)
On Behalf of Themselves and All)
Others Similarly Situated,)
)
Plaintiffs,) Civil Action No. 98C-09-064-RRC
)
v.)
)
IOMEGA CORPORATION,)
)
Defendant.)

**NOTICE OF PENDENCY OF CLASS ACTION
AND HEARING ON PROPOSED SETTLEMENT**

TO: ALL PERSONS WHO PURCHASED AN IOMEGA ZIP® DRIVE AT RETAIL OR THROUGH AN AUTHORIZED IOMEGA ORIGINAL EQUIPMENT MANUFACTURER BETWEEN JANUARY 1, 1995 AND MARCH 19, 2001.

THIS NOTICE IS GIVEN TO INFORM YOU OF THE PENDENCY OF THIS CLASS ACTION AND OF ITS PROPOSED SETTLEMENT. IF THE SETTLEMENT IS APPROVED BY THE COURT, CERTAIN BENEFITS WILL BE AVAILABLE TO THE MEMBERS OF THE CLASS IN SETTLEMENT OF ALL CLAIMS FOR DAMAGE TO YOUR ZIP® DRIVE AND/OR LOSSES FROM THE CORRUPTION OR LOSS OF DATA AS A RESULT OF SUCH DAMAGE.

THIS NOTICE CONCERNS YOUR LEGAL RIGHTS. PLEASE READ IT CAREFULLY. NOTHING IN THIS NOTICE SHOULD BE CONSTRUED AS AN EXPRESSION BY THE COURT ABOUT THE MERITS OF THIS LAWSUIT OR THE SETTLEMENT.

DEFINITIONS

For purposes of this Notice, the following terms have the meanings set forth below:

1. “Class” means all persons in the United States who, between January 1, 1995 and March 19, 2001, purchased at retail or through an authorized Iomega original equipment manufacturer an Iomega Zip® drive. Excluded from the Class are Iomega, any entity in which

Iomega has a controlling interest, and any of Iomega's subsidiaries, affiliates, officers, directors, or employees.

2. “Class Claims” shall refer to any manner of action and causes of action, claims, suits, arbitrations, obligations, debts, demands, agreements, promises, liabilities, damages, judgments, decrees, controversies, costs and expenses, or attorneys fees, whether based on federal law, state law, common law or otherwise, foreseen or unforeseen, matured or unmatured, known or unknown, accrued or unaccrued, suspected or unsuspected (whether class or individual in nature), asserting claims for damage to Zip drives and/or losses resulting from the corruption or loss of data as a result of such damage or to other drives, which have been, ever could have been, or can hereafter be asserted by the Plaintiffs, or the Class Members, or any one of them, against Iomega or the Releasees, in connection with, arising out of, or relating in any way to (a) the Complaint, or (b) the acts, failures to act, omissions, misrepresentations, statements, misstatements, facts, events, transactions, occurrences, or other subject matters set forth, alleged, embraced, encompassed, or otherwise referred to in or underlying the Complaint, including, without limitation, any and all claims for violations of federal, state, common or other law arising from such subject matters. Class Claims do not include claims for personal injury or physical property damage (except that claims relating to physical damage to any disk or disk drive are included). Class Claims also do not include any unexpired and otherwise valid express warranty claims which do not relate to the allegations in the Complaint.

3. “Class Member” means the Plaintiffs and any Person who fits within the definition of the Class who does not file a valid and timely Request for Exclusion, as provided in the Notice.

4. “Proof of Manifestation” means an affidavit or other written statement made under the penalties of perjury in a form to be mutually determined by Iomega’s Counsel and Class Counsel which sets forth the circumstances under which the Zip Drive purchased by a Class Member manifested a clicking problem resulting in damage to the Drive, to the media contained in the Drive, or to another drive.

5. “Releasees” means Iomega, and its present and former trustees, directors, agents, partners, principals, officers, employees, members, shareholders, attorneys, insurers, parents, subsidiaries, affiliates, divisions, and any predecessor or successor partnerships, corporations or entity, and any person or entity controlled by them or controlling them.

6. “Request for Exclusion” means a request by a person who fits within the definition of the Class to be excluded from the Class pursuant to Delaware Superior Court Civil Rule 23.

7. “Settlement Effective Date” means the date by which the Court’s approval of this settlement becomes final and all appeals, if any, have been exhausted.

8. “Stipulation” means the Stipulation of Settlement of Class Action and all exhibits attached hereto.

BACKGROUND AND DESCRIPTION OF THIS LITIGATION

1. On September 10, 1998, the Plaintiffs, on behalf of themselves and other similarly situated purchasers of Iomega’s Zip® Drive products, brought this class action lawsuit against Iomega Corporation (“Iomega”). The plaintiffs claim: (1) that the Zip® Drives contain a manufacturing and/or design defect that causes a “clicking” problem, and (2) that as a result of the alleged defect, users experience damage to the Zip® Drive, to the media contained on Zip® Disks inserted into the drives or to other drives into which the Zip® Disks are inserted. The

Plaintiffs also claim that certain advertising statements about the Zip® Drives were misleading. The plaintiffs have asserted claims for violation of the Delaware Consumer Fraud Act, 6 Del. C. § 2511 et seq. (“DCFA”), negligent design and/or manufacture, breach of warranty, and breach of the duty to warn.

2. For the purposes of this settlement, the Court has entered an Order which preliminarily determined that the Plaintiffs fairly and adequately represent the interests of the Class and are proper parties to assert these claims. The Class consists of the all persons in the United States who purchased an Iomega Zip® Drive at retail or through an authorized Iomega original equipment manufacturer between January 1, 1995 and March 19, 2001. Excluded from the Class are Iomega, any entity in which Iomega has a controlling interest, and any of Iomega’s subsidiaries, affiliates, officers, directors or employees.

3. Counsel for the Class have made a thorough pre-filing and ongoing investigation of the law and facts relating to the allegations of the Complaint and the defenses likely to be asserted by Iomega. That investigation has included forensic deconstruction and testing of failed Zip® Drives, study of publicly-available information, consultation with drive technology experts, as well as review and analysis of hundreds of thousands of documents provided by Iomega.

4. Iomega denies any liability or wrongdoing which is alleged in the Complaint, but has decided to enter into this settlement in order avoid the costs and burdens associated with continuing the litigation.

5. The Court has not ruled on the merits of the claims asserted by the plaintiffs in the Complaint.

THE PROPOSED SETTLEMENT

6. Under the Stipulation:

a. For any member of the Class not opting out of the Class who submits to Iomega no later than September 6, 2001 a Request for a Rebate in the form annexed hereto, with or without a valid Proof of Manifestation, Iomega shall issue (whether by mail or electronically at Iomega's option) within 120 days of the Settlement Effective Date, but in no event before October 31, 2001, at its expense, rebate information (in the form of a discount code for an instant rebate or a mail-in rebate certificate) that is appropriate to that Class Member's particular claim. This rebate will be valid for six months from the date of issuance and may be redeemed through Iomega's online store (www.iomegadirect.com) instantly, or through any authorized Iomega retail channel on purchases made after the Settlement Effective Date. Rebates hereunder may be combined with only one other valid, non-settlement coupon or rebate offered by Iomega on the applicable product. Rebates hereunder, however, may not be combined together. Rebate certificates are transferable.

Each Class Member who submits a Request for Rebate along with a valid Proof of Manifestation shall receive a rebate certificate or instant rebate code entitling the Class Member to a rebate of the listed amount on any one of the following purchases made after the Settlement Effective Date:

\$17.50 toward the purchase of a Zip® 250 Drive; or

\$12.50 toward the purchase of a Zip® 100 Drive; or

\$40.00 toward the purchase of a Zip® 250 Drive and a 6 pack of Zip® 250 disks;
or

\$27.50 toward the purchase of a Zip® 100 Drive and a 6 pack of Zip® 100 disks;
or

\$17.50 toward the purchase of six Zip® 250 disks; or

\$12.50 toward the purchase of six Zip® 100 disks; or

\$12.50 toward the purchase of a Pocket Zip® – PC Drive; or

\$35.00 toward the purchase of a Pocket Zip® – PC Drive and a 10 pack of Pocket Zip® media; or

\$22.50 toward the purchase of a Pocket Zip® – PC Drive and a 4 pack of Pocket Zip® media

Each Class Member who submits a Request for Rebate, but without a valid Proof of Manifestation, shall receive a rebate certificate or instant rebate code entitling the Class Member to a rebate of the listed amount on any one of the following purchases made after the Settlement Effective Date:

\$10.00 toward the purchase of a Zip® 250 Drive; or

\$5.00 toward the purchase of a Zip® 100 Drive; or

\$25.00 toward the purchase of a Zip® 250 Drive and a 6 pack of Zip® 250 disks;
or

\$12.50 toward the purchase of a Zip® 100 Drive and a 6 pack of Zip® 100 disks;
or

\$10.00 toward the purchase of six Zip® 250 disks; or

\$5.00 toward the purchase of six Zip® 100 disks; or

\$5.00 toward the purchase of a Pocket Zip® – PC Drive; or

\$17.50 toward the purchase of a Pocket Zip® – PC Drive and a 10 pack of Pocket Zip® media; or

\$10.00 toward the purchase of a Pocket Zip® – PC Drive and a 4 pack of Pocket Zip® media.

b. Technical Assistance

For the period running from the Settlement Effective Date to ten months after the Settlement Effective Date, Iomega shall make available dedicated technical service personnel to address inquiries regarding “clicking” problems with any Zip® Drives. Such personnel will be made available to customers free of charge during the normal hours of operation of Iomega’s technical support by means of a direct link option from Iomega’s technical support call menu. Iomega’s technical support telephone number is: 1-800-697-8833.

c. Charitable Donation

Iomega shall make a donation of Zip® Drives, accompanying disks, related services, and software with a total retail value of one million dollars (\$1,000,000.00) to schools, K-12, pursuant to a program to be mutually determined by Iomega and Class Counsel. Approximately 50% of said retail value shall be allocated to Zip® Drives, 1% to accompanying disks, 12% to related services, and 37% to the software package ordinarily provided by Iomega to schools under its charitable program. Iomega shall have one year from the Settlement Effective Date in which to complete the donations provided for in this paragraph.

d. Cash Payment

Iomega shall pay to the Class in settlement of the Class Claims an amount up to \$4.7 million, or such lesser amount that the Court may approve, which amount shall be designated for Class Counsel's reasonable attorneys’ fees and expenses.

7. Based on the discovery conducted to date and their overall investigation in pursuit of their claims, as well as substantial arms-length negotiations between counsel, and considering the benefits of the settlement to the Class and the risks associated with further litigation (including the uncertainty of trial and the delay associated with any appeal), the Plaintiffs and Class Counsel have concluded that the proposed settlement is fair, reasonable, and adequate.

Based upon these considerations, the Plaintiffs and Class Counsel have concluded that it is in the best interests of the Plaintiffs and the Class to settle the claims asserted in this lawsuit on the terms and conditions agreed upon in the proposed settlement.

8. The proposed settlement provides significant benefits to the Plaintiffs and the Class and will eliminate the burden and expense of further litigation and the risk that nothing will be recovered for the Plaintiffs and the Class if the case goes to judgment, and it will finally put to rest the claims of the Plaintiffs individually and on behalf of the Class that were or could have been made against Iomega in this action.

- a. The proposed settlement will become effective if the conditions of the Stipulation are met and if the Court enters a final judgment which approves the settlement (the “Final Judgment”) and the Final Judgment is affirmed, if there is any appeal, or is no longer subject to appeal.
- b. If the proposed settlement is approved by the Court, all Class Members will be deemed to have released and discharged all Class Claims, including claims for damage to the Zip® Drives and/or losses from the corruption or loss of data as a result of such damage, against the Releasees, and shall be barred from asserting any Class Claims against the Releasees.**

9. The Plaintiffs and the Class have been represented in this litigation by the following law firms ("Class Counsel"):

Sanford P. Dumain, Esq.
Lee A. Weiss, Esq.
Milberg Weiss Bershad Hynes & Lerach LLP
One Pennsylvania Plaza
New York, New York 10119

Michael C. Dodge, Esq.
Tisha Dodge, Esq.
Dodge Fazio Anderson & Jones, P.C.
One Lincoln Center
5400 LBJ Freeway
Suite 800
Dallas, Texas 75240

Jeffrey S. Goddess, Esq.
Rosenthal Monhait Gross & Goddess, P.A.
Suite 1401
Mellon Bank Center
P.O. Box 1070
Wilmington, Delaware 19899-1070

Robert I. Lax, Esq.
Jerome Noll, Esq.
Lax & Noll
535 Fifth Avenue, 21st Floor
New York, New York 10017

10. Class Counsel will request from the Court an award of attorneys' fees and reimbursement of expenses. Class Counsel will request that the Court award to them their reasonable attorneys' fees and expenses in connection with the Class Claims, not to exceed \$4.7 million.

YOUR CHOICES AS A CLASS MEMBER

11. If you are a member of the Class, as defined above, you have the following choices:

- a. If you wish to participate in the settlement as a member of the Class, you do not need to appear at the hearing discussed below. However, in order

to receive information regarding how to participate in the instant or mail-in rebate, you must complete and return by September 6, 2001 the Request for Rebate and (if applicable) the Proof of Manifestation Form attached to this Notice as Exhibit A. Alternatively, you may complete the applicable forms on-line at www.iomega.com beginning on April 4, 2001 and until September 6, 2001.

- b. You may, if you desire, file a signed, written request to be excluded from the Class. If you request to be excluded from the Class, you will not be entitled to the benefits of the settlement as set forth above in Paragraph 6; you will not be bound by judgments for or against the Class; and you will retain any individual rights you may have with respect to the Class Claims. Any member of the Class who wants to be excluded from the Class must do so in writing. Such Request for Exclusion shall clearly indicate that the sender requests to be excluded from the Class and must be signed. The request should state: (1) the name and address of the person seeking exclusion; (2) the Iomega Zip® Drive(s) purchased; and (3) the date(s) (or approximate date(s)) on which the Zip® Drive(s) were purchased. Any Request for Exclusion must be postmarked by May 24, 2001 and a copy must be sent to the following:

Lee A. Weiss, Esq.
Milberg Weiss Bershad Hynes & Lerach LLP
P.O. Box 3171
Farley Post Office
New York, New York 10001

c. You may, if you desire, appear at the Settlement Hearing to object to the proposed settlement or to the application for attorneys' fees and reimbursement of expenses, if you do not request to be excluded from the Class. To do so, you must file a written notice of objection, together with a statement of your reasons, with the Court. Any such objection should be directed to the Court as follows: Prothonotary, Civil Section, Superior Court of Delaware, 1020 N. King Street, Wilmington, Delaware 19801, Attn: Rinaldi, C.A. No. 98C-09-064-RRC. To be considered by the Court, all objections must be received on or before May 24, 2001 and copies must also be sent to:

Jeffrey S. Goddess, Esq.
Rosenthal Monhait Gross & Goddess, P.A.
Suite 1401
Mellon Bank Center
P.O. Box 1070
Wilmington, Delaware 19899-1070

- and -

Srinivas M. Raju, Esq.
Richards, Layton & Finger
One Rodney Square
P.O. Box 551
Wilmington, Delaware 19899

SETTLEMENT HEARING

12. On June 8, 2001, at 10:00 a.m., a hearing will be held in the Superior Court of Delaware, located at 1020 N. King Street, Wilmington, Delaware 19801, to determine whether the settlement should be approved by the Court as fair, reasonable and adequate, and whether

judgment should be entered thereon. The Court will also consider at this Hearing the request of Class Counsel for an award of attorneys' fees and reimbursement of expenses for the services they have rendered in this litigation.

13. Your attendance at the settlement hearing is not required. However, you may be heard orally at the hearing in opposition to the proposed settlement or Class Counsels' application for attorneys' fees and expenses only if you have not requested to be excluded from the Class and have timely filed written objections in the manner described in subparagraph 11(c) above. You may also enter an appearance through an attorney. If you do not do so, you will be represented in this action by Class Counsel.

EXAMINATION OF PAPERS

14. This is only a summary of the circumstances surrounding the lawsuit, the claims and defenses asserted, the proposed settlement, and the matters related to the lawsuit. For more detailed information you may review the Stipulation and related documents and other papers on file in the litigation, which may be inspected during regular business hours at the office of the Prothonotary, Superior Court of the State of Delaware, in and for New Castle County. If you have any questions about this Notice, the settlement, or the lawsuit generally, you should direct them to:

Sanford P. Dumain, Esq.
Lee A. Weiss, Esq.
Milberg Weiss Bershad Hynes & Lerach LLP
P.O. Box 3171
Farley Post Office
New York, New York 10001

PLEASE DO NOT CALL THE COURT.

/s/ Sharon Agnew _____
Prothonotary

Dated: March 23, 2001

**EXHIBIT A
REQUEST FOR REBATE**

In order to receive the information necessary to participate in the instant or mail-in rebate, you **MUST** complete Section A. In addition, if you believe that you experienced a "clicking" problem with your Iomega Zip® drive, you **MUST** complete Section B. You will receive instant and mail-in rebate information by completing Section A alone. Those providing a valid Proof of Manifestation by properly completing Section B will be entitled to a greater rebate, as provided in paragraph 6(a) of this Notice. Based on your answers to Section B, we will determine if you qualify for the greater rebate amount, and will send you the rebate form and information on how to participate. Your completed form should be sent to:

**Iomega Corporation
Attn: Claim for Processing
P. O. Box 202
Roy, UT 84067**

SECTION A -- PROOF OF CLAIM

Name: _____ Date You Purchase Your Zip Drive: _____
Address: _____ Email Address: _____
City, State, Zip: _____ Serial Number of Your Zip Drive: _____

Do you want your rebate certificate sent to you by regular mail or to your email address?
(Circle One)

Regular Mail / Email

SECTION B -- PROOF OF MANIFESTATION

Please answer ALL of the following questions regarding your Iomega Zip drive:

(1) Have you experienced a CONTINUAL clicking noise when attempting to use your Zip drive? **Do not circle "Yes" in response to this question if your drive has made occasional clicking noises when a Zip disk is inserted. Answer "Yes" to this question only if your drive has made a CONTINUAL clicking noise.**

Y / N (circle one)

(2) Does the drive make the continual clicking noise regardless of which Zip disk is inserted?

Y / N (circle one)

(3) Has your drive failed to read and write data after making a continual clicking noise?

Y / N (circle one)

I, _____ [please print your name], attest and represent, under the pains and penalties of perjury, that the answers provided herein are true and correct.

Signature: _____