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Suit Calls School Lunch Pay Processors Junk Fee 'Bullies'

By **Bonnie Eslinger**

Law360 (November 1, 2024, 9:27 PM EDT) -- Three parents filed a proposed class action in New Jersey federal court alleging consumer fraud against a major school lunch payment processor, saying it has misrepresented the purpose of the "junk fees" it charges for electronic transactions that are imposed on families mostly just for profit.

The complaint filed Wednesday against New Jersey-based PAMS Lunch Room LLC and PCS Revenue Control Systems Inc. — the affiliated companies that operate the PayPAMS system — claims that the companies are engaging in "unfair and deceptive practices" by imposing the excessive fees on families who pay for their children's school lunches.

The suit claims violations of the New Jersey Consumer Fraud Act, the New Jersey Truth-in-Consumer Contract, Warranty and Notice Act, breach of contract and unjust enrichment, and seeks injunctive relief, unquantified monetary damages, and attorney fees, among other relief.

"PayPAMS represents that its fees cover the 'cost' of processing payment transactions and running its website. That statement is a false and deceptive misrepresentation because the cost of processing payment transactions is well below the amount of the fee charged," the suit states. "Thus, the junk fees it charges for electronic transactions is mostly profit."

The suit is built upon **a July study** by the Consumer Financial Protection Bureau finding that school lunch payment processors typically charge fees to add money to a student's school lunch account, which collectively can cost families upwards of \$100 million each year.

"The \$100 million in junk fees represents money that could have gone to buy students food; money that parents could have kept for other expenses; or money that school districts could have redeployed for other educational purposes," the suit asserts.

School lunch payment processors are compared in the suit to bullies who steal lunch money from kids.

"Over the past decade, the bullies have become more sophisticated, and evolved into payment processing companies like defendants PAMS Lunch Room LLC and PCS Revenue Control Systems, Inc," the plaintiffs say.

Districts contract with third-party payment processors with the expectation that the companies can provide the service at a lower cost and with more administrative efficiency, they contend.

"But payment processors actually increase costs to families by charging far more than their processing cost — up to nine times more, according to the CFPB1 — to inflate their own profits," the suit says.

Processors generally control the fee levels and can change them at any time, according to the complaint.

"Since families can only use the payment platform their district has chosen, families cannot shop around for lower fees," the plaintiffs note, adding that payment processors like PayPAMS face little competition.

Although school districts are required by law to allow fee-free payment options, such as paying by cash or check directly to a school or district, not all school districts promote that option to parents, according to the complaint. In addition, school districts "are not required to provide comparable online payment options that do not incur fees," the plaintiffs say.

In light of the CFPB's findings, a group of Democratic senators called on the Biden administration in September **to crack down** on payment processing fees in school lunch programs.

The suit is brought by parents Gaynela Price and Jamie Dannelly, who both live in Texas, and Atalanta Pierre-Louis, who lives in Washington.

"American families' school lunch dollars should go to paying for food — not to line PayPAMS' pockets," said Shana H. Khader of Tycko & Zavareei LLP, co-counsel for the plaintiffs. "With our clients, we are taking a stand for families across the country and are committed to securing damages for affected families and injunctive relief to prevent further harm."

Representatives for PAMS and PSC did not immediately respond to requests for comment Friday.

The plaintiffs are represented by Esther Berezofsky and Michael Quirk of Motley Rice LLC, Wesley M. Griffith of Cutter Law PC, Shana H. Khader, Katherine Aizpuru and F. Peter Silva II of Tycko & Zavareei LLP, Janet R. Varnell, Brian W. Warwick and Christopher J. Brochu of Varnell & Warwick.

The case is Gaynela Price et al. v PAMS Lunch Room LLC et al., case number 1:24-cv-10178, in the U.S. District Court for the District of New Jersey.

--Additional reporting by Jon Hill. Editing by Kristen Becker.

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