

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CAROL M. MCDONOUGH, et al.,

Plaintiffs,

CIVIL ACTION

v.

NO. 06-0242

**TOYS “R” US, INC., d/b/a/ Babies “R” Us,
et al.,**

Defendants.

ARIEL ELLIOTT, et al.,

Plaintiffs,

CIVIL ACTION

v.

No. 09-6151

**TOYS “R” US, INC., d/b/a Babies “R” Us,
et al.,**

Defendants.

ORDER

AND NOW, this 18th day of January 2023, upon consideration of Defendants’ *motion to amend final order and judgment approving fourth amended settlement and certifying settlement subclass allocation order and distribution order*, filed in the matter of *McDonough, et al. v. Toys “R” Us, Inc d/b/a Babies “R” Us et al.*, Civil Action No. 06-242, [ECF 934], and in the matter of *Elliott et al. v. Toys “R” Us, Inc d/b/a Babies “R” Us et al.*, Civil Action No. 09-6151, [ECF 203], pursuant to Federal Rule of Civil Procedure 60(b), it is hereby **ORDERED** that, for the reasons set forth and the good cause shown in Defendants’ motion, the motion is **GRANTED**, as follows:

1. This Court directs the Claims Administrator to continue administration of the Settlement pursuant to the Agreement, the Final Order and Judgment, and this Order.
2. The Rebate Program is approved and shall substitute for the Coupons. The

Claims Administrator shall distribute to Eligible Coupon Recipients the rebate form as described in Exhibit “A” of the Motion to Amend pursuant to the Rebate Program described below and in the rebate form:

- A. The total value of rebates available (up to \$ 8,393,532.00) must be made available for distribution to Eligible Coupon Recipients as follows:

Pro Rata Rebate Amount Groups(a)	Rebate Amount Per Class Member
between \$.01 and \$7.50	\$5.00
between \$7.51 and \$15.00	\$10.00
between \$15.01 and \$20.00	\$20.00
between \$20.01 and \$30.00	\$26.00
between \$30.01 and \$50.00	\$40.00
between \$50.01 and \$75.00	\$58.00
between \$75.01 and \$100.00	\$85.00
between \$100.01 and \$150.00	\$115.00
between \$150.01 and \$200.00	\$175.00
Over \$200.00	\$240.00
Footnote: (a) Range of claim amounts within each grouping multiplied by rebate percentage (42.846%)	

The Pro-Rata Rebate Amount Groups are based upon a pro rata distribution consistent with the allocation and distribution performed by the Claims Administrator in connection with the payments made to Authorized Claimants described in paragraphs 2-5 of the Allocation Order. Once distributed, the Rebate forms are fully transferrable.

- B. Within 30 days of the date of this Order, the Claims Administrator must identify and submit to Class Counsel an accounting of the Rebate Forms to be distributed. At the same time, the Claims Administrator shall provide Defendants with sufficient information to (i) identify the

aggregate of all Rebate amounts which may be distributed; and (ii) explain the calculation as provided for by this Order. Within 10 days of such notice, Class Counsel must identify any issues or communicate their agreement with the Rebate distribution proposed to be made by the Claims Administrator. If Class Counsel and the Claims Administrator are unable to agree on the Rebate distribution to be made or the resolution of any outstanding issues, they must request an Order from the Court resolving any such issues. If no issues exist, Rebate forms shall be distributed by the Claims Administrator to Eligible Coupon Recipients. If, however, outstanding issues remain, Rebate forms must not be distributed until so-ordered by the Court. Rebates must be valid for electronic submission to the Claims Administrator for ninety (90) days from issuance.

- C. Once Rebate forms have been distributed and submitted to the Claims Administrator, the Claims Administrator shall review and consider whether each Rebate form has been submitted and documented properly. Upon completion of such analysis, the Claims Administrator shall notify Class Counsel and Defendants of the total dollar amount of rebate claims approved. Defendants shall then wire transfer to the Claims Administrator within seven (7) business days the dollar amount of rebate claims approved from the Final Remaining Amount they have received.
- D. Upon receipt of the funds totaling the amount of approved rebate claims, the Claims Administrator shall distribute to each Eligible Coupon

Recipient (or its assignee or transferee) who submitted an approved rebate form the applicable approved rebate amount. The checks for distribution shall bear the notation “CASH PROMPTLY, VOID AND SUBJECT TO REDISTRIBUTION IF NOT CASHED WITHIN 30 DAYS AFTER ISSUE DATE,” or words of similar import.

- E. Checks not cashed within 30 days of the issuance date will be voided.
- F. If there is any balance remaining from the funds transferred to the Claims Administrator from Defendants for payment of approved rebate claims at a date thirty (30) days from the issuance date of checks to Eligible Coupon Recipients (or their assignees), by reason of uncashed checks or otherwise, the Claims Administrator shall distribute the remaining balance (“the Final Rebate Amount”) to Defendants as Defendants shall direct.

3. After receipt of the Final Rebate Amount, Defendants are authorized to pay the Claims Administrator for its reasonable fees and expenses incurred in connection with the administration of the Rebate Program for which a reserve of approximately \$200,000.00 already has been established. If there is any dispute concerning the reasonable fees and expenses of the Claims Administrator concerning the administration of the Rebate Program, Defendants and the Claims Administrator shall seek an order from the Court resolving any such dispute.

4. Following payment of the fees and expenses to the Claims Administrator as described in paragraph 3 above, Defendants may distribute among themselves as they shall

agree, any remaining funds from the Final Remaining Amount, including the Final Rebate Amount.

5. All persons involved in the review, validation, calculation or who are otherwise involved in the administration or taxation of the Settlement Fund are released and discharged from any and all claims arising out of such involvement, and all Eligible Coupon Recipients, whether or not they have submitted claims or are to receive payment from the Settlement Fund are barred from making any further claims against the Settlement Fund or the released parties beyond the amount allocated to them pursuant to this Order.

6. This Court continues to reserve jurisdiction over all matters relating to the administration of the Settlement Agreement in accordance with the Final Judgment.

BY THE COURT:

/s/ Nitza I. Quiñones Alejandro

NITZA I. QUIÑONES ALEJANDRO

Judge, United States District Court