



Lawyer in Dunkin' butter case: \$90,000 payout 'not actually profitable'

E-MAIL FACEBOOK TWITTER GOOGLE LINKEDIN

86



JONATHAN WIGGS/GLOBE STAFF/FILE

By [Matt Rocheleau](#)

GLOBE STAFF APRIL 05, 2017

On the surface, it seems, something doesn't taste quite right about the proposed settlement in [the class-action case](#) of a central Massachusetts man who has sued over having butter substitute —

instead of the real butter he'd ordered — on his Dunkin' Donuts bagels.

He would get \$500, and up to 1,400 other similarly-wronged customers would get a few free buttered baked goods.

Meanwhile, his legal representation in the case would get up to \$90,000, according to [terms of a proposed settlement filed in court this week](#).

That's about 180 times the amount that would go to the man who brought the suit, or about the equivalent of roughly 90,000 buttered bagels from Dunkin' Donuts.



Lawyer in Dunkin' butter case: \$90,000 payout 'not

Get Fast Forward in your inbox:

Forget yesterday's news. Get what you need today in this early-morning email.

Sign Up

But one of the man's attorneys said that the deal is not as unfair as it may appear.



Lawyer could pocket \$90k in Dunkin' case, leaving

\$500 for client

The plaintiff who sued Dunkin' Donuts for allegedly using margarine on his bagels would get \$500; his lawyer could receive up to \$90,000.

He couldn't believe it was butter. So he sued Dunkin' Donuts.

The secret world of the Dunkin' Donuts franchise kings

For one, the money would not go to any one lawyer or individual, said the attorney, Thomas Shapiro.

"It's not like it all goes right into my pocket or any one person's pocket," he said by phone Wednesday.

Instead, it would be shared by the two law firms that backed the class-action suit and used not only to compensate attorneys and paralegals who worked on the case, but also to cover other overhead costs the firms incurred.

Shapiro said that three or four attorneys, along with several paralegals and other staff, helped on the case, which the firms have worked on for more than a year. And, Shapiro noted, their work won't be done once, and if, a judge approves the proposed settlement; there will be more to do to help class members receive their free buttered baked goods.

"It's much more time consuming than one would imagine looking from the outside," Shapiro said. "When compared with the actual time we put into the case, this is not actually a profitable case for us."



“We did this because we thought it’s an important principle,” he added.

As part of the settlement, Dunkin’ Donuts would agree to notify customers if they offer a butter substitute instead of the real stuff.

“That was the main issue of the lawsuit. And now there will be a notice there, so people will be alerted to the issue,” Shapiro said. “I think a lot of people will really appreciate that. I think most people were not aware before — you don’t think about it.”

The difference between butter and margarine may seem small, even silly, but Shapiro said he’s received emails from people thanking him who claim that eating the butter substitutes caused them to have an allergic reaction.

And the suit drives home a bigger point: that companies should advertise truthfully.

“A lot of products are being sold around the country as ‘all natural’ when they’re not.”

Such class-action cases “provide an important public service,” he said. “The companies know they’re going to be held accountable,” he said.

Shapiro said the man who brought the case forward was happy with the settlement terms.

“I don't think he did this for the money,” Shapiro said. “I think he did it because it was wrong and he felt it should be corrected.”

Legal experts say that such scenarios — where attorneys get a huge payout but their clients get little or no money — are far from unusual in class action cases.

And some decry the practice as being unfair.

“In general, this is a systemic issue with class actions, where lawyers structure settlements to benefit themselves rather than the class,” said Ted Frank, a lawyer and director of the Center for Class Action Fairness at the Competitive Enterprise Institute think tank in Washington D.C. “It’s a consistent problem.”

Frank said judges who must approve settlements in such cases sometimes approve seemingly lopsided agreements, despite laws designed to prevent attorneys from structuring settlements to

benefit themselves more than the class.

“Judges should be giving these settlements more scrutiny,” Frank said.

Yet, others argue that class action lawsuits and settlements are an important and beneficial tool for consumers — even in cases in which lawyers wind up taking home substantially more money than their clients.

Besides financial payouts, there can be other benefits from such cases, said Ira Rheingold, executive director of the National Association of Consumer Advocates.

In the local bagel-toppings case, for example, “If the lawyers are making Dunkin' Donuts change their policies, there's a certain value to that,” said Rheingold. “It's kind of silly, but nonetheless people do care if it's margarine versus butter.”

“One individual making a complaint to a Dunkin' Donuts isn't going to get the company to change their policies, but a class action lawsuit can.”

“Class actions are one of the ways to make sure that companies actually abide by the laws and tell the truth,” he added. “It's one of the ways the market can regulate itself. We simply don't have enough public regulators to hold every company accountable.”

Rheingold also noted that attorneys who take class-action cases are often taking on some risk because they typically only get paid for the work if they win or settle favorably.

He acknowledged, the system doesn't always work the way it should. There are cases where settlements clearly benefit lawyers much more so than the people they represent.

“Like everything it doesn't work perfectly,” Rheingold said. “Do some judges approve class actions they probably shouldn't? Yes.”

Related

- **How dairy? Lawyer could pocket \$90k in Dunkin' case, leaving \$500 for client**
- **He couldn't believe it was butter. So he sued Dunkin' Donuts.**
- **The secret world of the Dunkin' Donuts franchise kings**

Matt Rocheleau can be reached at matthew.rocheleau@globe.com. Follow him on Twitter [@mrochele](https://twitter.com/mrochele)

Stay updated, right in your news feed.

Most Popular In Metro →



Trump proposal relies on claims by religious researchers

A proposal by President Trump's administration would undo the Affordable Care Act's five-year-old mandate for birth control coverage. [MORE...](#)



Storms could bring hail and severe winds

Damaging winds, quarter-size hail, and even a tornado are possibilities in Massachusetts today. [MORE...](#)



Dick Albert, former Channel 5 weatherman, dies

"It's a huge loss," said Harvey Leonard. "It's truly like losing a brother, that's what I considered him to be." [MORE...](#)



In Michelle Carter's hometown, opinions vary on justice of her sentence

Residents who spoke to the Globe were split on whether Carter, now 20, received an appropriate sentence for urging Conrad Roy III to kill himself. [MORE...](#)



The majority of Harvard's incoming class is nonwhite

Harvard's push to broaden diversity comes as the Trump administration turns its focus on affirmative action policies. [MORE...](#)

VA Secretary ousts third official at troubled N.H. hospital

VA Secretary David Shulkin said he was responding to allegations of dangerously substandard care made by medical staff in a Boston Globe report last month. [MORE...](#)



Mother of Conrad Roy III seeks \$4.2m in wrongful death suit against Michelle Carter

Lynn Roy says she is seeking damages “caused by the defendant’s negligence and wanton and reckless conduct.” [MORE...](#)



State agrees with Trump administration to delay long-awaited water pollution rules

A landmark plan to curb pollution in lakes, rivers, and streams throughout Massachusetts has been delayed for at least another year. [MORE...](#)



Teamster in Top Chef trial could get jail time for posting on Facebook during trial

Daniel Redmond, one of four Teamsters on trial, posted an article on the Facebook page, “Support the Teamster 4,” violating a court order to not speak publicly about the case. [MORE...](#)



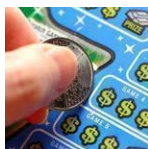
Thousands of cyclists are pedaling during the 38th Pan-Mass Challenge

More than 5,300 cyclists took off Saturday morning in the 2017 Pan-Mass Challenge, raising money for patient care and cancer research. [MORE...](#)



He thought he was dying, but highway chief paved his own road to salvation

Tom Tinlin needed a lot of things to go his way when a blood vessel in his brain burst in April. Fittingly, one of them was traffic. [MORE...](#)



Lawbreakers or just really lucky? Mass. has more repeat lottery winners than any other state

Some people redeem so many winning tickets that they raise questions about the integrity and oversight of the \$5 billion state lottery. [MORE...](#)

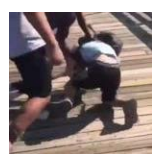
Police disperse hundreds of youths in the North End

State Police spokesman David Procopio said Boston police requested Massachusetts State Police assistance with dispersing between 500 and 1,000 youths. [MORE...](#)



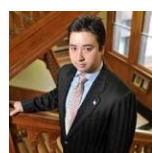
A cross-country bicycle trip of a lifetime — delayed 40 years

John Sweeney averaged 65 miles a day, mostly along Route 20, a 3,365-mile ribbon of asphalt that is the longest road in the United States. [MORE...](#)



State Police investigate video of youths fighting on pier in Quincy

A video of youths being punched and kicked is making the rounds on social media. [MORE...](#)



Cambridge city councilor to leave politics

Cambridge city councilor Leland Cheung, the first Asian-American on the council, announced this week that he intends to leave politics. [MORE...](#)



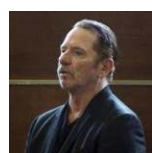
This weekend, bus shuttles replace rail service on five lines

You might want to just stay home this weekend. [MORE...](#)



Michelle Carter receives 15 months in jail; will remain free pending appeal

A judge sentenced Michelle Carter to two and a half years, with 15 months to serve and 15 months probation, for goading her boyfriend to kill himself in a high-profile texting suicide case. However, he allowed Carter to remain free while awaiting appeal. [MORE...](#)



'Dukes of Hazzard' actor arrested in Waltham

Tom Wopat was arraigned on a charge of groping a woman who was to share the stage with him in a local production of "42nd Street." [MORE...](#)

Top 10 Trending Articles

Most Viewed

Most Commented

Most Shared

Nick Cafardo: Which players may be available in trade after ...

Trump forsakes scenic traditions to vacation in the land of s...

Storms could bring hail and severe winds Saturday

Trump administration advances religious researchers' birth ...

Dick Albert, former Channel 5 weatherman, dies

What's it like be an NFL quarterback at 40? We asked Warr...
My Account

Danny Amendola never considered retiring or playing for a t...
Manage my Account

Former Patriots QB Jim Plunkett: 'My life sucks'

Sign Up For Newsletters
There's one month left of summer. Here's what you can't mi...

Contact
Trump increasingly isolated as disillusionment grows withi...

Help

FAQs

Globe newsroom

Advertise

Social

Facebook

Twitter

Google+

More

ePaper

News in Education

Archives

[Privacy policy](#)

[Terms of service](#)

[Terms of purchase](#)

[Work at Boston Globe Media](#)

© 2017 Boston Globe Media Partners, LLC