

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES - GENERAL**

<b>Case No.</b>	2:07-cv-00171-FMC-AJWx	<b>Date</b>	October 31, 2007
<b>Title</b>	Michael Bateman v. American Multi Cinema Inc		

<b>Present: The Honorable</b>	FLORENCE-MARIE COOPER
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Alicia Mamer Deputy Clerk	Not present Court Reporter / Recorder	N/A Tape No.
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Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not present

Not present

**Proceedings:** ORDER DENYING PLAINTIFF'S MOTION FOR CLASS CERTIFICATION (In Chambers)

On October 16, 2007, Plaintiff Michael Bateman moved for class certification in this case arising under the Fair and Accurate Credit Transactions Act ("FACTA") (docket no. 28). After careful review, the Court denies Plaintiff's motion for the reasons outlined in recent orders of other Courts in the Central District of California denying class certification in eleven similar FACTA cases<sup>1</sup>. In each of those cases, the Court denied class certification because of the plaintiffs' failure to satisfy the superiority requirement of Federal Rule of Civil Procedure 23(b)(3). Specifically, certification was denied because superiority is not demonstrated where, as here, the magnitude of the defendant's liability "would be enormous and completely out of proportion to any harm suffered by the plaintiff." *London v. Wal-Mart Stores, Inc.*, 340 F.3d 1246, 1255 n.5 (11th Cir. 2003) (citing *Kline v. Coldwell Banker & Co.*, 508 F.2d 226 (9th Cir. 1974)). In addition, Defendant American Multi-Cinema, Inc. demonstrated good faith by complying with FACTA within a few weeks of the filing of Plaintiff's Complaint. This limits the deterrent effect of a class action. See, e.g., *Soulian v. International Coffee and Tea LLC*, CV 07-502-RGK (Jcx) (C.D. Cal. filed June 11, 2007).

As the Ninth Circuit has accepted an interlocutory appeal in *Soulian*, the Court deems it prudent to deny class certification without prejudice, pending the outcome of the Circuit Court's review of that case. Accordingly, Plaintiff's Motion is DENIED without Prejudice.

<sup>1</sup>These cases are: *Spikings v. Cost Plus, Inc.*, CV 06-8125 JFW (AJWx) (C.D. Cal. May 25, 2007) (denying class certification); *Soulian v. Int'l Coffee and Tea LLC*, CV 07-502 RGK (JCx) (C.D. Cal. June 11, 2007) (same); *Najarian v. Avis Rent A Car Sys. LLC*, CV 07-588 RGK (Ex) (C.D. Cal. June 11, 2007) (same); *Najarian v. Charlotte Russe, Inc.*, CV 07-501 RGK (CTx) (C.D. Cal. June 12, 2007) (same); *Lopez v. KB Toys Retail, Inc.*, CV 07-144 JFW (CWx) (C.D. Cal. July 17, 2007) (same); *Papazian v. Burberry Ltd., et al.*, CV 07-1479 GPS (RZx) (C.D. Cal. Aug. 3, 2007) (same); *Torossian v. Vitamin Shoppe Indus. et al.*, CV 07-0523 ODW (SSx) (C.D. Cal. Aug. 8, 2007) (same); *Evans v. U-Haul of Cal., Inc., et al.*, CV 07-2097 JFW (JCx) (C.D. Cal. Aug. 14, 2007); *Medrano v. Modern Parking, Inc. et al.*, CV 07-2949 PA (AGRx) (C.D. Cal. Sept. 17, 2007) (same); *Simon v. Ashworth, Inc.*, CV 07-1324 GHK (AJWx) (C.D. Cal. Sept. 28, 2007) (same); *Serna v. Big A Drug Stores, Inc. et al.*, CV 07-0276 CJC (MLGx) (C.D. Cal. Oct. 9, 2007) (same); *Vasquez-Torres v. McGrath's Publick Fish House, Inc.*, CV 07-1332 AHM (Cwx) (C.D. Cal. Oct. 12, 2007) (same).

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Initials of Preparer \_\_\_\_\_ : N/A  
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