

Big Little Material Omissions: Reese Witherspoon and Draper James Subject of Class Action Lawsuit

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In April, Draper James – the clothing line of Hollywood star Reese Witherspoon – conducted a promotion for teachers, but ran into some communication issues along the way and is now the subject of a class action lawsuit. In an [Instagram post](#), the brand thanked teachers for their work during the COVID-19 pandemic, and explained that, to show their gratitude, Draper James “would like to give teachers a free dress.” Media outlets including The Today Show and Good Morning America helped publicize the promotion, reporting that the brand was “giving free dresses to teachers.”

Teachers were instructed to apply by the stated deadline, and the application process required that entrants provide their personal contact information, as well as copies of their employee badges and work email addresses. Many thought that they would receive, or at least have a good chance to receive, a free dress. Unfortunately, that was not the case. Although the Instagram post contained caveats that the “offer [was] valid while supplies last[ed]” and that the “winners” would be notified, it did not disclose that only 250 teachers would receive a free dress.

After receiving close to 1 million entries, Draper James announced that the offer was a sweepstakes and provided all entrants with a coupon for 20 to 30% off. The inevitable resulted: complaints, angry comments on social media, and a class action lawsuit alleging, among other things, breach of contract and violation of the California Consumer Legal Remedies Act and Unfair Competition Law. The complaint, initially filed in Los Angeles County Superior Court but removed last week to the U.S. District Court for the Central District of California, alleges that Draper James made an offer, promising new dresses in exchange for entrants providing their personal contact and employment information, and then breached that promise. That entrants, even if they did not receive a free dress, were added to the brand’s email marketing database only added fuel to the fire. The plaintiffs seek restitution and disgorgement, as well as injunctive relief.

This promotion and its issues highlight the fact that, even if a business is trying to do good, things can go wrong. It is important that businesses communicate the material terms – including any restrictions or limitations – of any promotion. When that promotion is a sweepstakes, official rules are a must, as they lay out the specifics (e.g., winner selection, prize quantity) and provide protections for the business. For more information on structuring and advertising sweepstakes and contests, please check out our [podcast](#) or reach out to us directly.