

## **AWCI Board of Directors:**

President Mark Butterworth has asked me about my involvement with the Federal Case with Richemont North America, Inc. a Delaware Corporation and Successor to Cartier.

Questions that have been asked:

1. Why would I get involved?
2. Who removed Mr. Fleury from the case and why?
3. Was there a conflict of interest on my part?
4. What changes were made to the original document by the existing and updated sub-class members?
5. Did I receive any monetary reward or preferential treatment from Richemont or Cartier from my involvement?
6. Where does the settlement stand at the present time?

### **1. Why would I get involved?**

As a person who has repaired watches for over forty years, been elected by the membership to represent them and elected by the Board of Directors to serve as President of AWCI, I felt the need to be involved in a lawsuit against Richemont to substantiate our “**Mission Statement**”. I have stated and it is backed up by the list of plaintiffs in this case: “Andre Fleury, d/b/a SWISS WATCH CO., Mike Mertaban, d/b/a WATCH EXPERTS, Dennis Warner, Charles Cleves, on behalf of themselves and others and all other similarly situated that I was speaking for myself. Nowhere in the federal case does it state that I am a member of AWCI or its president but it was a motivating force behind me becoming involved.

Mr. Fleury contends that everything was going just fine until AWCI, Charles Cleves and I were interjected. How does one interject themselves when there was no awareness of the case until we were contacted by his legal council? Then the question would be “why add more plaintiffs if the lawyer was satisfied with Andre’s wants”? He was removed from the case by his actions.

### **AWCI Mission Statement**

**The American Watchmakers-Clockmakers Institute is the premier international organization dedicated to preserving and promoting the highest standards of workmanship in the horological crafts. It is the role of AWCI to set the standard of**

**excellence to be applied to the quality of instruction for both the restoration and repair practices that are taught worldwide.**

Members have asked for years for AWCI to get involved with the parts issue. This was an opportunity to have our wishes addressed. Someone had to act.

I have always believed that it is better to be criticized for doing something as opposed to being criticized for doing nothing or just talking an issue to death.

At the AWCI Annual Meeting in 2007 I was approached about replacing Andre Fleury in a Federal Lawsuit involving Richemont (Cartier) and their parts distribution policy. I was told at that time his lawyers had asked and been granted permission by the court to remove Mr. Fleury from the suit and replace him with others.

**2. Who removed Mr. Fleury from the case and why?**

*From Federal document below:*

(Note #2) Class council withdrew after council and Andre Fleury disagreed about fairness, adequacy and reasonableness of the settlement.

(Note #5) “He sought monetary compensation which was unique to him, was unrealistic, and conflicted with the interest of the class as a whole.”

(Notes #16, 19, 21) These notes indicate inaccurate statements, unsubstantiated remarks, subjects not addressed, and statements were not submitted “under penalty of perjury”.

**Court notes from**

**UNITED STATES DISTRICT COURT**

**FOR THE NORTHERN DISTRICT OF CALIFORNIA**

Andre Fleury, d/b/a SWISS WATCH CO., Mike Mertaban, d/b/a WATCH EXPERTS, Dennis Warner, Charles Cleves, on behalf of themselves and others and all other similarly situated, and LIZ HART, an individual consumer, on behalf of herself and all others similarly situated

**2. Plaintiffs consist of the Settling Plaintiffs, plus Andre Fleury. Class counsel initially represented Andre Fleury but later withdrew from the representation, with the permission of the Court, after counsel and Andre Fleury disagreed about the fairness, adequacy, and reasonableness of the settlement.**

**5. As discussed below, ultimately, the Court appointed only Mr. Mertaban, Mr. Warner, and Mr. Cleves as representatives of the watchmaker subclass. The Court**

never appointed Andre Fleury as a representative for the watchmaker subclass. In an order that was issued after preliminary approval, the Court rejected Andre Fleury's argument that he should be appointed a representative because, inter alia, paper he had filed in the past suggested that he sought monetary compensation which was unique to him, was unrealistic, and conflicted with the interest of the class as a whole. See Docket No. 202 (order, filed on 11/29/2007).

16. The watchmakers in the Fleury submission who were not given the supplemental notice were (1) those who were not U.S. watchmakers (and hence not part of the class) and (2) those who were duplicative of the requests for exclusion and/or objections submitted to the GCG. All other (including the "premature" alleged opt-outs) were provided the supplemental notice.

19 The Court notes that Andre Fleury did not attach to his declaration any document from the Department of Labor substantiating such. The Court also noted that, in his previous filings, Andre Fleury claimed that there were approximately 6,000 independent watchmakers. See Docket No 165 (letter, filed on 9/25/2007).

21. Contrary to what Sacha Fleury claims, the declaration of Andre Fleury, se Docket No. 248, does not address tooling. See Docket No. 249 (Sacha Fleury, Obj.at 6).

In a letter filed with the Court on September 25, 2007, Andre Fleury did represent to the Court that he has "repaired Cartier watches for 40 years and no special tools were ever proposed to me." Docket No. 165 (letter), but that statement was not provided under penalty of perjury. Andre Fleury also represented in the letter that another watchmaker, Jean Bernhard, "was contracted by Cartier (International) (in 1994 and 1995) to repair 280 of their watches (and) no tools were given, suggested, or proposed to him." id., but that statement too was not provided under penalty of perjury. Nor was the letter allegedly sent by Mr. Bernhard authenticated. Even if it were, the letter constitutes hearsay and has marginal relevance since Mr. Bernhard was discussing events more than a decade old.

Similarly, the letter filed by Andre Fleury on October 11, 2007, also was not submitted under penalty of perjury. Se Docket No. 173 (filed on 10/11/2007).

23. The Court noted that, of the potential objectors in the Fleury submission who were given the supplemental notice and an opportunity to clarify their intent, on 60 chose to opt-out. See Part 1.D.2 supra.

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I did not agree to join this suit until I got more details. The lawyers and plaintiffs were interested in one or more individuals to represent the needs of the watchmaker; individuals who were working at the bench daily and had parts accounts similar to those of Cartier (Richemont).

I was able to provide the court with the following information from my files:

- What tools did other companies require
- What training was necessary
- What was the physical layout of the shop
- How were parts organized
- What was the initial outlay of cash
- What did the on site interview entail

**3. Was there a conflict of interest on my part?**

I did agree to become a part of the case with the understanding of AWCI Executive Director, AWCI Legal Council, my lawyer in California and the Federal Judge who was to hear the case that as well as being a practicing watchmaker I was also President of AWCI. At a later date I was questioned by several members of our Board of Directors if there was a conflict of interest in me being one of the plaintiffs in the class action suit. Again I contacted the AWCI legal council, my lawyer and the federal judge with a copy of the AWCI Constitution. All agreed I was not in conflict. The judge said he would let me know if I was ever in conflict.

The judge and my council did let me know while making changes to the original document presented by Andre Fleury that my suggestion of having applicants to the accounts procedure be AWCI Certified Watchmakers 21<sup>st</sup> Century (CW21). The suggestion was a conflict of interest because it would exclude non-members of AWCI. That requirement was not included in the final settlement.

The Board of Directors was informed of the opinions, but to this day some individuals do not accept the opinion of the judge or the lawyers. This can be witnessed by the constant posting on AWI Matters and subsequently on Horological Matters. During a meeting of the Board of Directors I asked the Director Doug Stuart, who had many questions about the case and my involvement, to contact my lawyer “Cliff Pearson” so he could get those questions answered by a professional. He refused. I asked him several times, always with a no answer. I asked for an explanation. I got none. It is unknown to me why he did not want to do this. Director James Sadilek, who was also Vice President of AWCI at the time, volunteered to make the contact and did. He reported back to the board but let us know that he did not like or agree with the answers that he received. I do appreciate his efforts. I was hoping that one or both of these gentlemen would ask to be part of the suit. That way persons with differing backgrounds, experience and views would be incorporated into the final settlement. It did not happen.

All of my work in this case was known by the Board of Directors and the lawyers. If I was in “Conflict of Interest” of the AWCI Constitution, it was the duty and responsibility of Director Sadilek, Director Stuart or any other director to do more than talk about the issue ad infinitum but to bring a motion of Censure, Impeachment or Recall to the full

board. That would have brought the issue to a conclusion. As any member who has followed this for the past three years, it is evident that a conclusion was not desired.

**4. What changes were made to the original document by the updated subclass members?**

Changes to the original document that benefit watchmakers:

- Watchmakers who are employed by stores that sell and service items other than watches and items such as jewelry and estate pieces will not be excluded.
- The ten-mile restriction for competition will lower to one mile.
- Applicants were expanded to all who possess the necessary skills, equipment and premises
- Cartier will not discriminate between newly qualified and existing authorized dealers

**5. Did I receive any monetary reward or preferential treatment from Richemont or Cartier from my involvement?**

It has been inferred that being involved with the Fleury/Richemont suit I had a monetary gain. **I did not**, nor have I been given any preferential treatment in applying or receiving an account.

**6. Where does the settlement stand at the present time?**

In the original agreement the applicant had six months from the settlement date to apply for an account. That has been extended, you can still apply.

Requesting an application by email: [watchrepairsettlement@gardencitygroup.com](mailto:watchrepairsettlement@gardencitygroup.com)

Or calling toll free: 1-800-918-1029 (9 AM to 5 PM PST) Seattle, WA

I hope this answers the questions that have been circulating. Under advisement from my attorney I have not posted until now. I will gladly answer any specific questions you may have or you can call AWCI Headquarters in Harrison, OH for further information.

Information can be found on the internet, Key words “Cartier, Fleury, settlement, Northern District of California”  
or on the AWCI.com web page.

Specifically: Andre Fleury, et al. Plaintiffs, v. Richemont North America, Inc, Defendant No.C-05-4525 EMC (Docket No. 226)... Case 3:05-cv-04525-EMC

Case 3:05-cv-04525-EMC Document 267 Filed 05/19/2008  
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Dennis Warner CW21