

Class action may be brewing against retailers rejecting Apple Pay

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Rite Aid and CVS may face a class action lawsuit for boycotting Apple Pay and other mobile payments systems.

San Francisco plaintiffs firm Schubert Jonckheer & Kolbe announced this week that it is considering suing the retail giants to force them to reinstate Apple Pay, which they blocked from their stores shortly after its release. The law firm is investigating whether the companies violated antitrust laws aimed at promoting competition by joining forces with other retailers to thwart Apple Pay.

Schubert Jonckheer & Kolbe issued a press release earlier this week seeking feedback from customers who would like to use Apple Pay or Google Wallet, a [mobile payments](#) offering for the Android ecosystem, in Rite Aid or CVS. So far, the firm has heard from more than 300 people, lawyer Noah Schubert said.

"Consumers seem to be very upset that (Apple Pay) seems to have been pulled just for their own anti-competitive reasons," Schubert said.

Less than one week after Apple Pay launched in October, CVS and Rite Aid disabled the technology that supports the mobile wallet. Although the mega-retailers have allowed contactless payments in their stores before, they are part of a consortium of companies that is developing another mobile payments system that would let the companies pay less in fees to credit card companies and gather more data about transactions. The Merchant Customer Exchange, which also includes Wal-Mart and

Best Buy, threatens members with harsh fines if they accept rival mobile payment systems, the New York Times reported, likely forcing the pharmacies' hands.

Schubert Jonckheer & Kolbe is crying foul, arguing that Apple Pay is a better option for many consumers than CurrentC, a system MCX plans to release in 2015. MCX confirmed last week that email addresses of customers who signed up for the CurrentC pilot had been exposed.

"The primary harm to consumers is security, privacy and convenience," Schubert said.

A San Francisco-based antitrust lawyer who is not involved in the case said he struggled to see how consumers who can't use Apple Pay have been hurt. But Apple might be able to make a case that it has been illegally shut out of a key segment of the market, said the lawyer, who declined to be named because he is involved in pending litigation against the Cupertino, Calif., company.

Apple Pay allows people with the iPhone 6 or 6 Plus to make purchases by waving their phones at the register, rather than reaching for their wallets. Up and running in stores ranging from Macy's to McDonalds, Apple Pay is already the most popular mobile payment system, Apple CEO Tim Cook said at a technology conference last week. He added that Apple Pay saw more than 1 million activations in its first three days.

Schubert said the firm will likely decide whether to sue Rite Aid and CVS before the end of the year. A spokeswoman for Rite Aid declined to comment. CVS did not respond to a request for comment.

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