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From the February 18, 2008 Michigan Lawyers Weekly.

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Verdicts & Settlements

T-Mobile settles class action filed under MCPA

Subscribers repaid for excess service charges

The plaintiff obtained a full refund of overcharges for class members after filing a class action under the Michigan Consumer Protection Act (MCPA).

The lawsuit alleged T-Mobile overcharged its subscribers by billing them for data access services even though T-Mobile's subscribers had already paid a flat-rate monthly fee of \$5 or \$10 for unlimited access. At the onset of the litigation, T-Mobile filed a motion to force resolution of these claims through arbitration.

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However, according to counsel, the plaintiff convinced the court to strike down the class action waiver/arbitration provision in T-Mobile's subscription contract, arguing the provision would have prevented the case from being pursued as a class action.

Doing so, the plaintiff contended, would have violated the MCPA and public policy.

Thereafter, the parties reached a nationwide settlement requiring T-Mobile to provide class members with a net recovery of the full amount of all unrefunded overcharges with all costs for notice, claims administration, and counsel fees paid in addition to class members' 100 percent net recovery.

The amount of refunds received by class members as a result of the settlement was approximately \$3.7 million, as determined by an arbitrator.

Type of action: Consumer class action

Type of injuries: Wrongful data service charges

Name of case: Wong v. T-Mobile USA, Inc.

Court/Case no./Date: U.S. Dist. Court — Eastern Dist. of Mich.; 05-73922; Dec. 13, 2007

Tried before: Settlement

Name of judge: Nancy G. Edmunds

Settlement amount: \$3.7 million (net cash settlement)

Attorney for plaintiff: E. Powell Miller, Marc L. Newman and Steven Schwartz

Attorney for defendant: Withheld

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