



For Immediate Release

May 8, 2000

## **COURT ASKED TO SCRUTINIZE MULTIMILLION DOLLAR FEE REQUEST IN CLASS ACTION CASE**

*(In Re American Family Publishers Business Practices Litigation)*

The Washington Legal Foundation (WLF) today filed formal objections to a proposed class action settlement with the United States District Court for the District of New Jersey in Newark, New Jersey, on behalf of a class member. In particular, WLF objected to the proposed payment of up to \$11,750,000 in attorneys' fees and costs as unreasonable considering that class members may receive payments as small as \$5.00.

This class action case, *In Re American Family Publishers Business Practices Litigation*, began in 1998 when several plaintiffs filed both state and federal class actions against American Family Publishers and their related companies for direct mail solicitation of magazine subscriptions. The plaintiffs allege that the marketing materials sent to consumers misleadingly suggested that it was either necessary to purchase magazine subscriptions to win sweepstake prizes, or that purchasing the subscriptions or other merchandise enhanced their chances of winning a prize. The cases were subsequently consolidated in federal court in New Jersey.

The defendants denied all liability, but agreed to change their marketing practices and to pay \$32 million for partial refunds to those who purchased subscriptions between 1992 and 1999. At the same time, the settlement provides that the class counsel will apply for attorneys' fees and costs up to \$11,750,000 which will be paid separately by the defendants. The court notice of the proposed settlement stated that the refund amounts would not be affected by the size of the fees since they are being paid separately.

In its brief, WLF took issue with the payment scheme, arguing that the attorneys' fees should be viewed as part of the total settlement because the defendants are only interested in their total liability rather than how the money is divided between counsel and class members. WLF cited numerous cases which required the courts to take a hard look at these kinds of settlements which have the potential for a conflict of interest between class counsel and class members. A hearing in the case is scheduled for August 9, 2000.

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