

Posted on Sat, Sep. 09, 2006

SPRINT NEXTEL | Group says plan weighted toward attorneys

Phone fee settlement excoriated

Plaintiffs' lawyers defend proposal to wrap up class-action case.

By DAN MARGOLIES
The Kansas City Star

"Class members who took the time and effort to file claim forms will get \$2 phone cards while the attorneys will get \$5 million."

*Paul Kamenar, **Washington Legal Foundation***

A conservative legal foundation has objected to a class-action settlement with **Sprint Nextel Corp.** that calls for the plaintiffs' attorneys to get \$5 million while their clients get noncash benefits.

Questioning the benefit of the settlement to class members, the **Washington Legal Foundation** has asked a Wyandotte County judge to defer approval of the legal fees until they can be properly evaluated.

Judge Daniel Duncan is scheduled to hold a hearing Tuesday on whether the settlement is fair, adequate and reasonable. The case concerns regulatory fees that were tacked on to wireless customers' phone bills.

"We've objected on the grounds that it's basically a worthless settlement where class members who took the time and effort to file claim forms will get \$2 phone cards while the attorneys will get \$5 million for all this hard work they did," said attorney Paul Kamenar of the Washington Legal Foundation, a public interest group known for its staunch advocacy of free enterprise.

The foundation's objection met with a tart rebuttal Friday from one of the plaintiffs' attorneys, Chip Robertson Jr. of Leawood-based **Bartimus Frickleton Robertson & Obetz**.

"The Washington Legal Foundation is funded by a bunch of corporations who don't like class actions," he said. "Chief among them is Exxon, which managed to pay its departing CEO \$400 million. They don't believe a person who's lost \$19 should get that back. They want to do everything they can to discourage class actions."

Robertson, a former Missouri Supreme Court judge, said that what the foundation is proposing is "a rule of law that says that a corporation can steal lots of little bits of money and no one should be able to come and get those little bits of money. So that's why we have class actions and that's why they're plain wrong in this instance."

The settlement with Sprint would resolve two consolidated cases alleging that the company misled customers by charging various regulatory fees, hiding rate increases in their monthly statements, charging for directory fees, failing to disclose that it rounded minutes up to the next whole minute, and failing to disclose the limitations of its coverage and capacity.

Sprint, while denying all of the allegations, agreed to settle the cases earlier this year to avoid the uncertainties and expense of litigation.

Similar lawsuits were filed against **Nextel Corp.** (before it merged with Sprint), **Alltel Corp.** and **Cingular Wireless**. The Nextel case was also settled.

The Sprint settlement provides different remedies for different classes of customer. Some are to get invoice credits ranging from \$5 to \$19, others a long-distance calling card with face amounts ranging from \$1.50 to \$14. The \$19

benefit is to be paid in eight installments as credits on customers' bills.

In its objection, the Washington Legal Foundation called the value of the phone cards "dubious" for customers who have switched from Sprint to another service.

But the foundation reserved most of its fire for the proposed attorney fees, which it maintained should be limited to more than 25 percent of the value of the benefits claimed.

The court, it said, should defer awarding the fees until it has determined how many class members opt to participate in the settlement.

Robertson, however, said the foundation's characterization of the settlement as providing few benefits to class members was simply wrong.

"They're not noncash benefits in the sense that you can get a \$19 credit on your bill. So if somebody wants to take advantage of that, that's real money," he said, adding that the total value of the settlement's benefits was "well over \$250 million."

Even if a very small number of people fill out their claim forms, Robertson said, "Sprint will have to pay a substantial amount of money over time to people as a result of what happened."

To reach Dan Margolies, call (816) 234-4481 or send e-mail to dmargolies@kcstar.com.