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WEEKLY

\$25 million deal ends suit over tax settlement

AT&T sued over 'special municipal charges' on bills



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By SCOTT LAUCK

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A settlement worth more than \$25 million ended litigation filed in the wake of a 2009 deal between Missouri cities and AT&T.

After municipalities across the state alleged that AT&T had underpaid its landline-phone taxes to those cities, the phone company agreed to pay \$65 million to settle the case. But under the terms of the settlement, AT&T was permitted to pass on the costs of the settlement to existing customers.

Minsky's Pizza, a Kansas City pizzeria representing business customers, and Harry Mark Wooldridge, a Boonville man representing residential users, filed a lawsuit in Jackson County Circuit Court over the "special municipal charges" that began appearing on their

phone bills shortly after the settlement won approval.

The suit did not challenge the municipalities' settlement agreement but claimed that passing on the costs of the settlement constituted unjust enrichment and, for the residential customers, a violation of the state's Merchandising Practices Act.

AT&T agreed to pay \$21.7 million to affected customers and an additional \$3.75 million in attorneys' fees, but it did not admit fault. Judge Ann Mesle initially approved the deal in February and gave a final sign-off at a July 31 hearing.

The suit was filed in early 2010 but was put on hold while the Missouri Public Service Commission, which regulates utilities including

AT&T, reviewed the matter. In September 2011, the PSC ruled that the phone company could pass through the costs of the settlement to its customers.

The plaintiffs appealed the case to the Missouri Court of Appeals Western District, but settlement negotiations began shortly after the briefs were filed. According to a joint filing with the Western District in November, the parties reached the settlement on Sept. 13, 2012 — a year to the day after the PSC's order.

Nonetheless, it took several months to finalize the deal, "due to unforeseen difficulties in structuring the details of the settlement and complications arising from the fact that no fewer than nine separate groups within AT&T have been

involved in the process of determining how to operationalize the settlement," the court filing said.

The class includes about 495,000 residential customers and 102,700 business customers, though how they receive those benefits will depend on where they live and when they were billed for the special charge. According to the settlement agreement, some customers will receive a refund check or a credit on their phone bill. For others, AT&T will simply stop passing on the extra charge.

In addition, former AT&T customers will get \$5 calling cards if they submit valid claim forms.

According to court records, seven class members opted out of the settlement. **MO**

\$25.45 Million settlement

MISSOURI MERCHANDISING PRACTICES ACT

■ **Venue:** Jackson County Circuit Court

■ **Case Number/Date:** 1016-CV02438/July 31, 2013

■ **Judge:** Ann Mesle

■ **Caption:** Barry Road Associates Inc. d/b/a Minsky's Pizza, The Main Street Associates Inc. d/b/a Minsky's Pizza and Harry Mark Wooldridge v. Southwestern Bell Telephone Co. d/b/a AT&T Missouri

■ **Plaintiffs' Attorneys:** John F. Edgar, Edgar Law Firm, Kansas City

■ **Defendants' Attorneys:** Stephen B. Higgins, Amanda J. Hettinger and Kimberly M. Bousquet, Thompson Coburn, St. Louis