



For Immediate Release

May 23, 2007

**WLF OPPOSITION TO LEGAL FEES IN CLASS ACTION CASE
DRAWS PRE-EMPTIVE ATTACK BY PLAINTIFFS' ATTORNEYS
(*Perez v. Asurion Corporation*)**

The Washington Legal Foundation (WLF) filed formal objections this week to a proposed class action settlement where class members, who purchased insurance for their cell phones, may only request a phone card that has a face value of \$5.00, while plaintiffs' attorneys demand to be paid \$1.6 million in cash. But even before WLF had a chance to file its objections in the case on behalf of an objecting class member, the lead attorney for a group of four plaintiffs' law firms (including Lerach & Coughlin) took the opportunity to attack WLF's work against abusive class actions in court papers opposing an otherwise routine request by WLF attorneys to participate as counsel in the case.

"We're very flattered that the plaintiffs' bar regards WLF as such a threat to their attempts to reap excessive attorneys' fees while class members receive little or nothing, that they find it necessary to make pre-emptive, *ad hominem* attacks on WLF even before we had a chance to file the objections to their fee request," said Paul Kamenar, WLF's Senior Executive Counsel who filed the request with the court to appear in the case.

The class action was filed in federal court in Miami, Florida, on behalf of 10 million consumers who bought cell phones in the last two years and elected to purchase insurance to cover their phones if they were lost or damaged. The plaintiffs claim that the \$50 deductible payment was more than the value of replacement, refurbished phones. The defendants deny the allegations, but have agreed to settle the case by giving class members a chance to apply for a pre-paid phone card with a \$5.00 face value and to pay the attorneys \$1.6 million in cash. The four lead plaintiffs are demanding \$5,000 each.

In the course of preparing its objections to the settlement, WLF demanded that class counsel disclose the value of the phone card in minutes of usage and to submit billing information and documentation supporting their fee request. Counsel notified WLF that the phone card charges 10 cents per minute for domestic use, and provided only summary information related to their fee request. Shortly thereafter, the lead plaintiff's attorney filed a response in court to WLF's routine request to appear in the case, complaining that WLF is "a business and tort reform advocacy group that travels around the country and has objected in various courts to class action settlements," and that WLF's client (who is indisputably a class member) is none other than WLF's chief counsel for its Legal Studies Division.

In its 15-page opposition to the settlement and fee request, WLF blasted the non-cash settlement as constituting nothing more than worthless "coupons" to the consumers.

In the first place, cell phone users have little or no use for phone cards since they can make calls on their cell phone, and phone cards can only be used from pay phones or non-wireless phones. In addition, many pre-paid phone cards only charge one to five cents for calls, making the 10 cents per minute phone card worth, at most, half as much as other phone cards.

As for the request for \$1.6 million in attorneys' fees, WLF argued that inasmuch as the plaintiffs' attorney had not filed a formal request for fees and expenses, it was unfair for class members to be required to lodge their objections before the filing. Plaintiff attorneys usually have the court set the filing schedule in such a way as to require objections to be filed *before* substantive motions are filed, providing class members with only sketchy details of the settlement and fee request. Because other court rules allow for objections to be filed *after* the motion for fees are filed (a fact not disclosed to class members), WLF intends to file supplemental objections in mid-June after the class counsel file their motions to the court to accept the settlement and approve their fee request.

In any event, WLF argued in its initial filing that the attorneys should also be paid in phone cards, and that the court should not approve the fee request at the upcoming Final Settlement Hearing on June 22, 2007. Rather, WLF urged the court to delay ruling on the fee request until after it can be ascertained how many of the 10 million class members will file a claim for the phone card. If, for example, only 120,000 class members request a phone card, the maximum, inflated value is \$600,000; and if the contingency fee agreement calls for a fee of one-third of the amount recovered, then at most, the fee should only be \$200,000, not the \$1.6 million being requested. The deadline for class members to make a claim is July 19, 2007.

Serving as WLF's local counsel is Nicolas J. Gutierrez, Jr., of the law firm of Borgognoni & Gutierrez in Miami, Florida.

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For further information, contact WLF Senior Executive Counsel Paul Kamenar at 202-588-0302. A copy of the court filings by WLF and the initial filings by class counsel is available on WLF's website at www.wlf.org.