



**For Immediate Release**

**September 27, 2007**

**WLF FILES OBJECTIONS TO CLASS ACTION SETTLEMENT  
THAT PROVIDES \$25 MILLION IN ATTORNEYS' FEES,  
BUT LEAVES CLASS MEMBERS WITH NOTHING**

*(Fresco v. Automotive Directions, Inc.)*

The Washington Legal Foundation (WLF) filed objections this week in the United States District Court in Miami, Florida on behalf of two class members opposing a proposed class action settlement that provides for \$25 million in attorneys' fees to class counsel, \$15,000 for each of their named clients, but no monetary compensation for the estimated 200 million persons who are class members. WLF strongly urged the court to disapprove the settlement, but that at a minimum, to cut the excessive fee request by at least two-thirds the requested amount, and as much as 80 percent.

In *Fresco v. Automotive Directions, Inc.*, a class action was filed in 2003 on behalf of Florida residents alleging that the defendants, who are engaged in marketing services, violated the federal Driver's Privacy Protection Act (DPPA). That law generally prohibits the disclosure and use of personal information on file with the state's department of motor vehicles with regard to drivers' licenses and motor vehicle registration information, without the express written consent of the individual. Plaintiffs allege, and the defendants admit, that private information was obtained and used for marketing purposes without the person's permission as required by the DPPA, but the defendants deny they were liable under the DPPA because they were unaware that Florida did not get the consent of the individuals.

The DPPA provides that for each violation of the privacy provisions, the individual is entitled to sue for actual damages or liquidated damages of no less than \$2,500. The statutory liquidated damages provision was upheld by an appellate court in 2005 in *Kehoe v. Fidelity Federal Bank & Trust*, and that case was subsequently settled whereby the attorneys received \$5 million and the class received \$20 million. Class members who filed claims received \$160. However, in the pending *Fresco* case, the class counsel has agreed to settle this case with *no* money allocated to the class, but the defendants will pay class counsel \$25 million, which is *three times* their normal hourly rate. In addition, their nine individual clients who are class representatives are slated to get \$15,000 apiece. More troubling is the fact that, unlike other class actions, class members are not allowed to opt out of the case and pursue their own claims. In return for waiving all claims against them, the defendants essentially only agreed to comply with DPPA in the future.

On behalf of two class members, WLF filed a strongly worded 15-page objection to the settlement, fees, and special incentive payments, arguing that the settlement was not adequate or fair, and that the fees were grossly excessive and not justified.

"This case is an outrageous example of class action abuse where the attorneys' seek undeserved millions of dollars in fees, and leave class members with no compensation whatsoever, not even worthless coupons, which often are obtained in other cases," said Paul Kamenar, WLF's Senior Executive Counsel who filed the objections. "We hope that the court will not rubber-stamp this settlement as is often the case in other class actions, but instead will hold the plaintiffs' attorneys accountable for this offensive settlement where they get millions and class members get nothing," Kamenar added.

A Final Settlement Hearing in this case is currently scheduled for October 24, 2007 before U.S. District Court Judge Nartinez; however, Magistrate Judge Simonton, has been recently assigned to initially review the fee request, may schedule a separate hearing for that motion.

Serving as WLF's local counsel is Nicolas J. Gutierrez, Jr., of the law firm of Borgognoni & Gutierrez in Miami, Florida. WLF regularly files objections to class settlements such as this one on behalf of class members, particularly focusing on the excessive attorneys' fees that are awarded in these kinds of cases.

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For further information, contact WLF Senior Executive Counsel Paul Kamenar at 202-588-0302. Copies of the objections filed by WLF are available on WLF's website at [www.wlf.org](http://www.wlf.org).