

Hon. Harry J. McCarthy
Noted For Hearing:
August 27, 2007, 9:00 a.m.

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

BAXTER AIR, INC., and all others
similarly situated,

Plaintiffs,

v.

NOS COMMUNICATIONS, INC., et al.,

Defendants.

NO. 05-2-37411-0SEA

CLASS ACTION

~~PROPOSED~~
ORDER GRANTING
PLAINTIFF'S MOTION FOR
FURTHER CLASS
CERTIFICATION

THIS MATTER having come on before the Court, and the Court having considered the Plaintiff's Motion for Further Class Certification and all materials filed in support and opposition, the Court hereby orders as follows:

Plaintiff's Motion is GRANTED. The Court hereby certifies the Plaintiff's claim under the Washington Consumer Protection Act for all purposes. The class is defined as stated in the Court's previous order granting partial certification:

All Washington State customers of the Defendants who, at any time on or after November 16, 2001, purchased defendants'

~~PROPOSED~~ ORDER GRANTING
PLAINTIFF'S MOTION FOR FURTHER
CLASS CERTIFICATION - 1

595305.2/025750.00001

LAW OFFICES
BRESKIN JOHNSON & TOWNSEND PLLC
999 THIRD AVENUE, SUITE 4400
SEATTLE, WASHINGTON 98104-4088
(206) 652-8660

1 interstate, intrastate, and/or international long distance
2 telecommunications services for which Defendants billed in "cents
per call unit."

3 The Court has already entered partial summary judgment on behalf of
4 Plaintiff and the class as to liability, leaving causation and damages to be
5 determined in further proceedings. The Court now finds that causation and
6 damages may be adjudicated on a class-wide basis. Plaintiffs have established
7 that the Defendants used deceptive practices to sell long distance services to the
8 class, and each member of the class purchased Defendants' services. Plaintiffs
9 have offered a reasonable means of establishing the damages to the class based
10 on expert testimony and statistical sampling.

11 As noted previously, the claims of individual class members are likely
12 valued at a few hundred or thousand dollars each, and class adjudication of
13 common issues is therefore superior, indeed likely the only realistic method of
14 resolving the claims. Requiring proof of damages on an individual basis would
15 be impracticable and imprecise, and class-wide adjudication of damages can be
16 accomplished within the applicable standards of proof, by fair and reasonable
17 inference.

18 Pursuant to CR 23(c)(2), the notice has already been sent to all class
19 members by mail. The Court finds this notice need not be amended at this time.

20 IT IS SO ORDERED.

21 DONE IN OPEN COURT this 27 day of September, 2007.

22
23 HARRY J. McCARTHY

24

Honorable Harry J. McCarthy

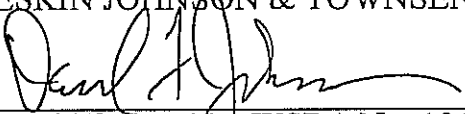
[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR FURTHER
CLASS CERTIFICATION - 2
595305.2/025750.00001

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BRESKIN JOHNSON & TOWNSEND PLLC
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Presented by:

BRESKIN JOHNSON & TOWNSEND PLLC

By 
David E. Breskin, WSBA No. 10607
Daniel F. Johnson, WSBA No. 27848
Attorneys for Plaintiffs