

# Washington State Court of Appeals Errored in Denying AT&T Wireless Services, Inc. Class Certification

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The Washington State Court of Appeals held today that under that state's Consumer Protection Act, it was error to deny class certification on the ground that establishing the element of "causation" would require individualized proof that consumers relied upon the defendant's deceptive act or practice. The court also concluded that the Washington Consumer Protection Act could be applied to the claims of all customers nationwide where the defendant resided in Washington and undertook its allegedly deceptive practices there. And the court held that it was error to deny certification of a nationwide class on the plaintiffs' breach of contract claim because individual choice of law issues did not predominate where the claim turned on interpretation of a standardized adhesion contract which the defendants used with all its customers nationwide.

The case was brought by several wireless phone customers against AT&T Wireless Services, Inc., concerning its practice of adding an additional monthly charge to its bills called a "Universal Connectivity Charge." The Defendant alleged it imposed this charge in order to recover from customers the money it was required to pay into the Federal Universal Service Fund. The plaintiffs alleged this charge was not disclosed to consumers prior to initiating service with the carrier, was not identified in its wireless service contracts, and was disguised as a tax or government-imposed fee though it was actually just an element of the defendant's business overhead.

According to Plaintiffs' counsel David Breskin and Daniel Johnson of Seattle, the court's opinion reassures consumers and their advocates that their rights can still be enforced. "The trial court's ruling that consumers could not bring a class action to vindicate their rights would have insulated companies who manage to bilk consumers of individually small amounts of money, because no consumer would or could bring such a claim on an individual basis," said Plaintifs' attorney Daniel Johnson of Seattle. "This opinion brings Washington into line with several other states which have recognized that causation in consumer protection claims does not require individualized proof of reliance." William Houck of Issaquah is co-counsel for Plaintiffs in the case.