



Advertising and Promotions Law

ALERT

MARCH 2008

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New Class Action Law Suit Involving Text Message Sweepstakes

A class action law suit was filed in federal district court in California against AT&T Mobility and unnamed sponsors of sweepstakes tied to various television shows, alleging that the defendants conducted an illegal lottery by charging 99¢ for individuals to enter the sweepstakes by sending a text message. The plaintiff is seeking restitution of the premium fees to every AT&T Mobility subscriber who has entered a sweepstakes by sending a text message.

According to the plaintiff, these sweepstakes constitute an illegal lottery because the 99¢ fee "purchased nothing except a chance to win a prize," and the alternate, free method of entry - filling out a form online - required more effort than sending a text message, required entrants to provide more information (such as name, email address, telephone number, date of birth, state of residence, and whether the entrant would like to receive emails and promotional offers), and was not advertised as frequently or as conspicuously as the text message method of entry. Moreover, plaintiff alleged, the information provided to defendants in connection with the alternate method of entry provided a benefit to defendants and thus constituted "consideration." The plaintiff also claimed that the defendants misrepresented the odds of winning and the grand prize available in each sweepstakes. The sweepstakes are tied to television shows including *Deal or No Deal* and *Survivor*.

Last year, four class action lawsuits were filed in California and Georgia against sweepstakes sponsors and producers of television shows, with similar claims that the defendants engaged in illegal lotteries by charging individuals a premium fee to enter the sweepstakes by sending a text message. One complaint was withdrawn, but the other cases are still being litigated.

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