

Godfrey man leads charge against phone tax

By Linda N. Weller

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GODFREY – A local man is leading a Chicago-based legal battle against municipal infrastructure maintenance fees on Illinoisans' monthly telephone bills, all because of a chance visit to the Windy City.

The fee is a charge by a municipality imposed on all telecommunications retailers. It is a percentage of the gross charges by the retailer on calls to and from inside the municipality. Cities with populations of more than 500,000 may charge up to 2 percent of the gross charges; smaller towns may charge up to 1 percent.

Last week, retired chiropractor William Spillman of Godfrey was reading a newspaper article about a Jan. 11 decision by 181st Circuit Court Judge Robert Boharic while sitting in a Chicago hospital waiting room.

Boharic had decided in favor of one count contained in a complaint filed by four cellular telephone companies against the Illinois Commerce Commission and the city of Chicago – agreeing that the fee violates the uniformity clause of the Illinois Constitution.

The plaintiffs had argued that the fee statute is invalid because it requires wireless providers to pay a fee to cover costs incurred by municipalities on rights of way – such as underground lines – that are not occupied by wireless providers. Their attorneys said the fee sweeps too broadly.

Cellular phones use telephone lines much less than land-based telephones and should have a lower fee, said plaintiffs' attorney Thomas Zimmerman Jr. of Chicago.

Because the judge ruled the fee is unconstitutional, appeal of the case will bypass the appellate court and go directly to the Illinois Supreme Court, Zimmerman said.

"In the meantime, we are seeking injunctive relief; and to decide, 'Can they still collect the tax?'" Zimmerman said. "We want the tax put into an escrow account that earns interest until the Supreme Court decides this."

Zimmerman estimates that some \$500 million has been collected in Illinois municipal infrastructure maintenance fees since Jan. 1, 1998 when the Telecommunications Municipal Infrastructure Maintenance Fee Act went into effect.

Spillman said the article prompted him to contact attorneys Stackler and Holstein of Chicago to bring about the end of the fee. Days later, on Friday, he was lead plaintiff out of nine in a class action complaint filed Friday in Circuit Court of Cook County.

Attorney Larry Drury of Chicago joined the other law firm in filing the complaint against seven telephone companies: Ameritech Corp., AT&T Corp., Sprint Communications Corp., Southwestern Bell Telephone, CellularOne Communication, PrimeCo Personal Communications and MCI/Worldcom; ICC, the city of Chicago and the village of Skokie.

"There's been a lot of discussion about phone bills in general and about hidden charges," Spillman said. "It is a general irritation over these kinds of bills. How can you have an IMF charge on a car phone?"

"I had trouble with (a cellular telephone company); they didn't keep their commitment and I lost money," he said. "I just offered to be a plaintiff in this justifiable case. My involvement is purely accidental. I just happened to be in Chicago and sitting around reading the newspaper. We all have to be involved with things that are unfair."

Zimmerman praised Spillman for getting involved in fighting the charges, which customers pay as part of their telephone bills, but go on to municipalities. Cities use the funds to repair sidewalks torn up for telephone line work and other similar costs, Zimmerman said.

“He really is a pioneer here,” Zimmerman said of Spillman. “He is taking on billion-dollar companies and is representing every customer in Illinois. He’s not afraid to stand up for what is right. He’s not going to make a lot of money out of this.”

Alton City Treasurer Dan Beiser confirmed that the city receives numerous infrastructure maintenance fee checks each month from a myriad of telephone companies, but a total was not available Tuesday. He said the money is deposited into the city’s general fund.

There also is a state of Illinois infrastructure fee on residents’ and businesses’ telephone bills.

Ameritech spokesman Dave Pacholczyk of Chicago said he had not seen the class action lawsuit but called the cellular company a collector for the state.

“We’re like Switzerland. We are a billing agent for the state,” he said. “We are not involved in this. This is a flow-through operation. We just collect money for the state.”