



EDITORIAL

Legalized Extortion

Everyone probably has a favorite joke defaming lawyers. Mine is: Q: What's the difference between a dead skunk and a dead lawyer lying in the middle of the road? A: There are skid marks in front of the skunk. Lawyers complain about being unfairly maligned, but anyone who even occasionally consults a newspaper will encounter a flood of reporting that paints the legal profession in an unfavorable light. Whether its the antics of the O.J. Simpson "dream team defense," or the account of a criminal who received a \$4.0 million settlement from the New York Police Department because a cop shot him as he brandished a pistol on a subway platform, the papers are full of evidence of a legal system seemingly out of control.

As a somewhat insular industry populated by small businesses, its easy to think that the music industry is immune to the excesses of the courts...that class actions, punitive damages, and huge settlements apply only to Fortune 500 companies. Well, think again. Schmitt Music of Minneapolis, one of the finest retail firms in the industry, is some \$2.0 million poorer after a run-in with a class action specialist. The story behind the suit does more to sully the reputation of lawyers than any joke I've ever heard. Unfortunately, though, it's a true account, and it's not very funny.

Over a seven-year period, between 1987 and 1994, Schmitt sold around 86,000 band instruments under a "trial purchase plan." The 20-store chain presented the plan as a revolving store charge, similar to those used by department stores, clearly marked all interest charges, allowed customers to charge lessons and accessories on account, and never received a complaint from anyone who felt cheated. The Federal Trade Commission even looked into the plan a few years back and stated clearly that it was in compliance with all applicable lending laws.

Two years ago the law firm Reinhardt & Anderson decided that Schmitt's plan was not a revolving charge, but a conditional installment sale. Since Minnesota state law puts a ceiling on installment sale interest, Reinhardt & Anderson sued "on behalf" of the 86,000 Schmitt customers, claiming

that the retailer had overcharged them too much interest. This in spite of the fact that they could come up with only three customers who felt wronged.

Two years and hundreds of thousands in legal fees later, Schmitt finally settled, handing over \$1.6 million in cash and merchandise coupons with a face value of \$2.0 million. Lead plaintiff attorney Mark Reinhardt said the settlement was "pretty good" for consumers, who will receive an average of \$12. What he neglected to say was that the settlement was a windfall for his firm, which should collect over \$800,000.

A fine retailing business with a distinguished 100-year tradition gets hit for over \$2.0 million and has its reputation publicly disparaged. A law firm clears \$800,000. And several thousand unsuspecting band instrument customers get a small check and few discount coupons. With all this money changing hands, you'd think that someone had done something wrong. Yet, in the final settlement, the overseeing judge, the plaintiffs attorneys, and the defense attorneys agreed that Schmitt did not have to make any alterations in its trial purchase program. When a lawyer can collect huge damages and a judge says that the alleged culprit can keep on doing what he's been doing, something is terribly wrong.

Schmitt's experience in the courts illustrates that good conduct, an unblemished reputation, and a clean bill of health from a major Federal agency are no protection from a determined trial attorney. We don't have the answer to the problem, but we would encourage all of our readers to acquaint their elected officials with the details of the Schmitt case and their concerns about a legal system that is raging out of control. Attempts to use the courts to extort money from businesses hurts real people and is a tremendous drag on society. It should be outlawed.

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