

July 22, 2004 (Hamilton, Ontario)

Bell Canada Faces Class Action Lawsuit Over Modem Hijacking Scams

A Statement of Claim was issued today in the Ontario Superior Court of Justice for damages and reimbursement of all fraudulent long distance telephone charges paid by customers to Bell Canada as a result of modem hijacking scams.

The Plaintiff, Edith Carriere, of Monetville, Ontario, is bringing the action under the *Class Proceedings Act, 1992*, on behalf of a class consisting of any person in Canada, who paid Bell Canada for fraudulent long distance telephone charges for calls to foreign locations such as Sao Tome, the Cook Islands, Nauru, Guyana, Guinea-Bissau, Tuvalu and Tokelau.

Modem Hijacking, also known as “internet dumping”, can affect anyone with an internet telephone line connection who unknowingly downloads programs from certain internet websites or pop-up windows.

Modem Hijacking results in a downloaded file accessing software on a user’s computer and causes the modem to dial phone numbers in foreign countries resulting in long distance telephone charges. This occurs without the knowledge or consent of the user.

This constitutes fraud and results in long distance telephone charges being accrued where the victims of the fraud did not initiate or place the long distance telephone calls in question.

The Statement of Claim, which contains allegations which have yet to be proven in Court, alleges that Bell Canada has known or ought to have known about these modem hijacking scams since at least January 1, 2002. Modem hijacking scams have increased significantly in Canada in recent years.

The Statement of Claim alleges that Bell Canada has been aware or ought to have been aware that modem hijacking could occur and was in fact occurring and ought to have warned its customers in that regard.

The Claim further alleges that Bell Canada was in a position to prevent the fraud by withholding settlement payments to other telephone carriers for completing customer long distance telephone calls in those locations.

The Statement of Claim further alleges that Bell Canada, as the largest telecommunication company in Canada, was uniquely positioned to monitor, become aware of, investigate and take proactive steps to prevent such fraudulent schemes.

The Plaintiff, Edith Carriere, was hit with close to \$1,000.00 of long distance charges on her

phone bills earlier this year for calls that she did not make and that were initiated only as a result of modem hijacking.

Mrs. Carriere vigorously complained to Bell, however, after all her complaining, all Bell did was reduce the amount owing giving her the best rate on the calls but maintaining that she was responsible for payment. Mrs. Carriere made payment of the bill since Bell threatened to cut-off her phone service if she did not pay.

According to CRTC rulings, Bell Canada cannot suspend or terminate local telephone service for failure to make payment of disputed long distance telephone charges as long as the customer makes payment of the legitimate local charges due and owing.

Bell Canada is the largest provider of wireline service and internet access in Canada. It has 26 million telephone connections and 2.5 million internet connections.

The claim is being pursued by David Thompson of Scarfone Hawkins ^{LLP} of Hamilton, a law firm with significant experience in handling complex class action claims on behalf of Plaintiffs.

Scarfone Hawkins ^{LLP} acts for Class Members on another claim against Bell Canada which was recently settled involving Bell Canada's First Rate long distance telephone savings plan. Under that settlement, Bell Canada is responsible for reimbursing customers close to \$10 million.

Scarfone Hawkins ^{LLP} also recently settled an action against Canada Post Corporation regarding a CD-Rom sold at Canada Post retail outlets advertising "free unlimited internet access" for life. Under that settlement, Canada Post was required to reimburse the cost of the CD-Rom to the approximately 150,000 people who purchased it.

For more information contact David Thompson of Scarfone Hawkins LLP at (905) 523-1333 or by e-mail at thompson@scarfonehawkinsllp.com.