

**FCC DOCKET NO. 05-194**

**TESTIMONY OF HAROLD P. SCHROER**

June 12, 2008

Good morning ladies and gentlemen, my name is Harold P. Schroer. I live in Southampton, New York. I'm retired and a veteran of World War II.

I am here in my capacity as representative claimant in a certified class arbitration vs. Verizon Wireless challenging the legality of their early termination fees. I represent a class of Verizon Wireless Customers in 49 states, who paid or were charged an ETF, or who had an ETF in their subscriber agreement. The class I represent paid roughly \$500 million out-of-pocket to Verizon Wireless, and we are seeking a refund of every penny of that money.

In May, 2003 I had been a Verizon Wireless customer for about two and a half years. During this period, at the suggestion of the Verizon representative, I changed my plan several times. When I reviewed the monthly bill from my last plan I found that it not only cost me more, but it provided me with services I did not need or want.

I told Verizon I wanted to go back to my original plan and was advised it was not available to me. So my choice was to pay more or stop the service. When I told them I was cancelling the service, I was warned if I did I would be charged an early termination fee of \$175 according to the terms of my contract. I advised

them that I had never signed a contract nor was I requested to do so. I was told it didn't matter for the minute I opened the carton containing the phone I purchased from Verizon, I was agreeing to the contract's terms. It should be noted I only used the original phone I purchased for the entire time I was a Verizon customer.

I am not an attorney, but I felt this was unfair and unreasonable, and it was a violation of my rights as a consumer, so I terminated their services. When I refused to pay the \$175 ETF, Verizon notified the credit reporting agencies which resulted in: lowering my credit rating; increased the interest rate on my credit cards; and caused the denial of my application for a Sears as well as a Citibank American Airlines credit card.

I don't know whether any of you commissioners have experienced the defamation of your credit but it is a situation you don't want to find yourself in.

These actions were far more damaging than the ETF charge of \$175. It is my belief that the ETF is not a rate charge but is a marketing tool used to prevent customers from changing providers. And by enforcing this policy they are denying my rights guaranteed under state consumer protection laws.

I'm glad to hear the Chairman express his desire to make certain that the consumer is protected.

My credit was defamed and I was being harassed by collection agencies to pay the \$175 ETF charge--not for being a deadbeat and failure to pay a bill covering services rendered, but for challenging the legality of what I considered an illegal charge.

I wrote to this Commission, and the Commission treated my letter as an informal complaint. When it was not resolved to my satisfaction, the Commission staff told me that the FCC does not have jurisdiction over state contract law and recommended that I contact the Attorney General of New York. I did so, and ultimately I became involved in the class action arbitration.

I understand that the commission is now considering taking jurisdiction of these matters in order to preempt my class arbitration, after many years and a lot of hard work. In other words, when I came to this Commission for help, you sent me away. Now that I am about to get my day in court somewhere else, after my almost 5 years of fighting to protect my rights, the Commission proposes to step in and prevent me from doing that. This is a miscarriage of justice, not just for me, but also for the millions of wireless cell phone customers who are subject to ETFs.

When I first challenged Verizon's ETF by contacting my state and federal representatives, the FTC, FCC, the Attorney General of New York, I was a lone voice. Verizon attempted to silence me by cancelling my ETF charge.

I guess they thought I would succumb to their gratuitous gesture and go away and not give a voice to the millions of their customers who have been and continue to be unfairly charged ETFs.

Today, I'm not alone for I not only represent the 4 million Verizon customers but speak for the tens of millions of other cell phone users who will be impacted by your decision.

I ask the Commission **NOT** to permit the powerful wireless lobby to silence these voices. I urge you **NOT** to take any action to interfere with my case or with other similar cases working their way through the courts and through arbitrations.

If not for the attorneys representing me in the class action representation I would not be before you today. I would remain but a single voice in the wilderness unable to challenge the legality of the ETF. Please **DO NOT** make all my and their efforts in seeking justice to be an exercise in futility.

I thank you for the opportunity of presenting my opinion.