

Missouri Lawyers WEEKLY

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Class Action Suit Settles for \$2.2 million

Settlement included \$861,639 in damages, plus \$1.4 million for injunctive relief



Dean Nash

A Jackson County class action suit against a health information technology company accused of improperly charging fees and taxes has settled for more than \$2.2 million.

The settlement included \$861,639 in taxes refunded by the Missouri Department of Revenue, plus injunctive relief valued at more than \$1.4 million.

In November 2005, Charlene Smith requested a copy of her medical records from her medical provider, as well as a business records affidavit attesting to the authenticity of such records. Through an agreement with Smith's provider, Smart Document Solutions sent the records and affidavit to Smith, a resident of Raytown. For pro-

viding this service, SDS charged Smith a \$2 certification fee, plus sales tax pursuant to instructions from the Missouri Department of Revenue.

Smith and two Kansas City-area law firms — Bower Belancio and the Law Firm of William F. Cownie — were named plaintiffs in a class action against the Alpharetta, Ga.-based company now known as HealthPort Technologies. Plaintiffs, on behalf of more than 170,000 class members, alleged that for several years Smart Document Solutions improperly charged certification fees in violation of Missouri's copy fee statute, Section 191.227, and improperly collected sales taxes on transactions that were not subject to sales or use tax.

The parties transferred the sales

tax portion of the case to the Missouri Department of Revenue and appealed the department's denial of a sales tax refund request to the Administrative Hearing Commission, said defense attorney Steve McCartan, of Lathrop & Gage in Kansas City. The Missouri Department of Revenue ultimately refunded 85 percent of the sales taxes collected, totaling \$861,639. Smart Document Solutions also agreed to stop charging certification fees and sales taxes on future transactions.

The final settlement totaled \$2,281,639, representing the combined value of money refunded for fee applications plus the agreed value of injunctive relief for future transactions.

— Anne C. Vitale

\$2,281,639 settlement

CLASS ACTION SEEKING RETURN OF FEES

- **Court:** Jackson County Circuit Court
- **Case Number/Date:** 0616-CV32726/Dec. 5, 2008
- **Judge:** Vernon E. Scoville III
- **Special Damages:** \$2,281,639 for fee applications, injunctive relief
- **Caption:** Charlene Smith, et al. v. Smart Document Solutions LLC

■ **Plaintiffs' Attorneys:** Ralph K. Phalen, Law Offices of Ralph Phalen, Kansas City; Lyle M. Gregory, Law Offices of Lyle M. Gregory, Raymore; Dean Nash, Nash & Franciskato, Kansas City, David Spencer, McGonagle Spencer, Kansas City

■ **Defendant's Attorneys:** Richard Rhyne and Steve McCartan, Lathrop & Gage, Kansas City