

Wiley Rein & Fielding Defends Verizon's First Amendment Rights

February 25, 2003

Washington, DC—Wiley Rein & Fielding, one of the largest communications law practices in the country, obtained a significant decision in favor of its client Verizon Northwest Communications. In *Verizon Northwest v. Marilyn Showalter*, the federal district court in Seattle temporarily suspended new rules in Washington state regarding the use of "customer proprietary network information" (CPNI).

According to Andrew G. McBride, the WRF Communications, Litigation and Appellate partner representing Verizon, "The State of Washington's new CPNI rules would violate Verizon's First Amendment right to engage in commercial speech and would have caused irreparable harm. In granting a preliminary injunction, the court has allowed Verizon to continue to contact its own customers while this case is in progress." WRF associates Kathryn L. Comerford and Kanyiki Tshibaka assisted on the case.

The disputed CPNI rules restrict a local telephone carrier's ability to make use of the customer information it collects in providing communications services, such as the subscriber's use of additional services beyond traditional voice telephony. Washington's "opt-in" CPNI restrictions would have prevented Verizon from contacting its customers to market new services unless those subscribers expressly consented to such contacts.

In ruling for Verizon, the court noted the existence of federal "opt-out" requirements designed to serve the same consumer interests as the Washington rules. Under opt-out rules, a customer is given the opportunity to expressly request not to be contacted for marketing purposes—an approach that appellate courts have suggested better

Practice Areas

Litigation
Telecom, Media & Technology

balances the free speech rights of telephone carriers and the privacy rights of their subscribers.