

EIGHTEENTH JUDICIAL DISTRICT
DISTRICT COURT OF SEDGWICK COUNTY, KANSAS
SMALL CLAIMS COURT

FILED *gj*
APP DOCKET NO. _____

PATRICK ROACH

vs.

TRACFONE WIRELESS, INC. dba
STRAIGHT TALK WIRELESS

Case No. SG-2025-SC-000256

2025 OCT -8 A 7:21

18TH JUDICIAL DISTRICT
SEDGWICK COUNTY, KS

MEMORANDUM DECISION

This matter comes on for trial on September 11, 2025. The plaintiff appears in person pro se. The defendant appears through Timothy Greg, employee of the defendant.

The court, having heard the evidence, reviewed the exhibits and considered the arguments of the parties took the matter under advisement. Now on the 8th day of October, 2025, the court makes the following findings of fact and conclusions of law.

Findings of Fact:

1. The plaintiff purchased from defendant an iPhone 16e on February 28, 2025, and activated it on the Verizon network on March 4, 2025. At the time that plaintiff made this purchase he understood that with one month of paid service the phone would be unlocked sixty days after activation so that its service could be transferred to the provider of his choice. However, on April 1, 2025, defendant changed its unlocking policy by requiring sixty days of continuous paid service before a phone would be unlocked. Because plaintiff intended to give his wife an unlocked iPhone 16e on her birthday which was already on the network he preferred to use, he objected to the addition of this requirement of an additional 30 days of paid service before the phone could be unlocked. To make the gift he wanted to make, he purchased another iPhone 16e which was already unlocked at a cost of \$643.93.

2. Plaintiff's original purchase from defendant was at a total cost of \$410.40 with the purchase of one month of service. A second month of service would cost an additional \$65. Plaintiff's petition seeks damages of \$10,000 but he admitted that this sum was chosen because it is the statutory maximum allowed for a small claim.

Mixed Findings and Conclusions of Law:

Plaintiff's claim essentially sounds in the provisions of the Communications Act of 1934 and the FCC regulations promulgated under it. It is particularly noteworthy that Section 206 of the Act includes a private right of action stating as follows:

In case any common carrier shall do, or cause or permit to be done, any act, matter, or thing in this chapter prohibited or declared to be unlawful, or shall omit to do any act, matter, or thing in this chapter required to be done, such common carrier shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of any such violation of the provisions of this chapter, together with a reasonable counsel or attorney's fee, to be fixed by the court in every case of recovery, which attorney's fee shall be taxed and collected as part of the costs in the case. 47 U.S. Code § 206.

While a wronged consumer may bring a complaint to the FCC for it to take administrative action and impose fines against a carrier, there is nothing to prevent this type of suit for individual recompense from going forward. It does appear that defendant's change in its unlocking policy is contrary to the applicable FCC regulations. 47 C.F.R. 27.16(b) and (e).

In addition, the Kansas Consumer Protection Act (KCPA) also contains provisions prohibiting deceptive acts by a supplier which would be applicable in this case. K.S.A. 50-626 describes as deceptive acts representations made knowingly or with reason to know that property has characteristics, uses, benefits or qualities that it does not have. Under the KCPA, a consumer

is not required to prove intent to defraud. *Kucharski-Berger v. Hill's Pet Nutrition*, 60 Kan.App.2d 510, 522, 494 P.3d 283 (2021). The fact that after plaintiff purchased the phone, the defendant changed the requirements for unlocking it so that plaintiff could go to a different network essentially altered the nature of the device purchased.

The Court concludes that plaintiff carried his burden of proving his claim against defendant such that the more pertinent issue is the nature and extent of his damages. Plaintiff acknowledged that his prayer for \$10,000 was solely based on the fact that the jurisdictional limit for small claims is now \$10,000. The actual measure of damages should be determined by what plaintiff lost by defendant's conduct. He paid a reduced price of \$410.40 for the phone expecting he would be able to use it on the network of his choice after one month. With the change in defendant's unlocking policy, the phone was essentially useless for the purpose plaintiff intended when he purchased it. He lost the benefit of the bargain he made with defendant such that his damages were loss of the \$410.40. The attached journal entry enters judgment for the plaintiff in the amount of \$410.40 plus the court cost and service fee.



District Magistrate Judge Elizabeth L Henry