

Whitehorse Daily Star

Lawyer praises family's perseverance

The right judge and the right sense of outrage – that's what Keith Landy says you need to win a case like the one James Anderson launched against Bell Mobility in 2007.

By **Amy Kenny** on **June 29, 2016**

The right judge and the right sense of outrage – that's what Keith Landy says you need to win a case like the one James Anderson launched against Bell Mobility in 2007.

Landy represented Anderson and his son Samuel in that case, which ended earlier this month.

On June 6, Justice Ron Veale ruled, in a Yellowknife courtroom, that Bell Mobility is liable for charging northern customers 911 fees for a service that wasn't actually available to them.

As a result, Justice Veale approved a settlement of \$1 million in what started out as a battle over 75 cents.

That's the monthly fee James, who lives in Yellowknife, realized he was paying for the 911 service on his cell phone plan.

With the exception of Whitehorse, 911 emergency services don't exist in communities in the Northwest Territories, Nunavut or the Yukon. Instead, callers receive a recorded phone message informing them of a lack of service.

Landy said his Toronto-based firm, Landy Marr Kats LLP, takes class-action suits if they seem like the right case.

With this one, he said the reasons were "almost self-evident."

"If someone's charging you for service that you're not providing, doesn't that seem unfair?" he asked during a phone interview this morning.

"People in the North live a difficult enough life from what I've seen, that to have to pay for a service that they weren't receiving, that seems unfair."

The suit was originally approved as a class-action on behalf of Bell customers in the N.W.T.

In 2011, it was expanded to include those in the Yukon and Nunavut, as long as they had been customers before April 13, 2010.

Two years into the suit, in 2009, Bell cancelled its fee for 911 services for new customers.

At the time, Landy said they cited competitiveness, but he said he likes to think the suit was a factor.

Landy said the lengthy suit was due, in part, to the fact that Bell proved a formidable opponent from a legal perspective.

He said one of the company's main points was that it was charging for a service on a mobile phone, which could connect with 911 emergency services if its user was travelling elsewhere in Canada.

Still, Landy said, it always confounded him that the process took so long.

"It's a credit to James Anderson and his son Sam for having stuck with it for the 8 1/2 years that it took," he said, comparing the face-off to a David and Goliath style showdown.

Landy called the family remarkable, noting that, between James' 30-plus years as an educator, and Samuel's work as a firefighter, it's clear they aim to be contributors to their community.

Justice Veale also noted the perseverance of the Andersons. In his decision, he said "... they have been present at every step of the process before this court.

"Their journey has been a long one for a case they might have expected to be resolved at a much earlier date."

He ordered Bell to pay a settlement of \$1,016,336.57.

Of that, \$515,737.11 will go to Landy Marr Kats LLP, and an additional \$5,000 will be paid to James and Samuel.

Bell is then responsible for figuring out the reimbursements left owing to the roughly 25,000 customers represented by the suit.

Veale's decision suggested it could be less than \$100 per person.

When asked for comment on the case, Bell representatives responded via email, saying, "We've reached an agreement that the plaintiffs consider fair and reasonable. We will not give any interview."

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