

# AT&T scotches appeal, pays small-claims litigant

March 16 2012, By PETER SVENSSON , AP Technology Writer

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(AP) -- AT&T Inc. on Friday gave up on appealing an \$850 award won by an iPhone user in small claims court, and sent him a check.

Matt Spaccarelli, of Simi Valley, Calif., had sued the [phone](#) company because it was slowing down the data service on his phone. Spaccarelli has an "unlimited data" plan, but as of this fall, AT&T had begun slowing download speeds for these [subscribers](#) if they use more than a certain amount of data in a month.

Spaccarelli argued that "unlimited is unlimited," and the judge agreed at a hearing on Feb. 24.

AT&T initially said it would appeal the decision. It then offered to go into settlement talks with him, in a letter that implied that AT&T was looking at cancelling his service completely. Spaccarelli has admitted to "tethering" his phone to other devices, providing them Internet access through AT&T's wireless network. That's against AT&T's rules.

Spaccarelli turned the settlement offer down.

On Friday, the Dallas-based phone company said it was sending Spaccarelli a check for \$850, plus \$85 for court costs. Spokesman Mark Siegel didn't elaborate on the company's reasoning.

AT&T has 17 million subscribers on "unlimited" plans. It prohibits subscribers from seeking jury trials and from participating in class

actions. Its right to limit subscribers' legal options was upheld by the Supreme Court last year. The remaining options for subscribers seeking legal redress are small claims court and arbitration.

Arbitration is usually covered by confidentiality agreements, so consumers can't share tips about how to take on big companies. That doesn't apply to small claims court, and Spaccarelli has posted his legal materials online.

In a similar case, a California woman took Honda to small claims court last month and won \$9,867 because her Civic Hybrid did not live up to the promised gas mileage. Like Spaccarelli, she is helping Civic owners who hope to replicate her courtroom success.

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