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## III. Condo Sellers Say Online Database Overcharged Them

By **Hannah Meisel**

Law360, Springfield (November 22, 2017, 4:41 PM EST) -- CondoCerts.com, a web database that sells statutorily mandated certification documents to people selling condos in Illinois, was hit with a \$5 million putative class action from sellers who claim it's illegal for the website to charge "more than the reasonable cost of copying those documents."

The named plaintiff in the putative class action, Illinois resident Robert Ahrendt, said in his complaint filed Monday that he paid \$370 for the documents he needed from CondoCerts, but he and the other sellers say that, as evidenced by how easy and fast they downloaded the documents, the company is charging far more than what it pays for providing them.

Because failing to provide documents to the seller as required by the Illinois Condominium Property Act can prevent them from buying a condo, Ahrendt and the proposed class argue that sellers are stuck paying the unfairly high fees or risk the sale of their condo.

"Plaintiff, and other similarly situated individuals, had no choice or option but to pay the unreasonable fees and costs charged by defendant to obtain and access the ICPA documents in order to comply with the statute and the terms of the real estate sale contract," the complaint said. "Defendant's conduct caused plaintiff and other similarly situated individuals to suffer harm by depriving them of a choice, charging an unlawful and unreasonable fee for the ICPA documents, and forcing them to pay the unlawful and unreasonable fee in order comply with the ICPA, and to convey the condominium unit."

The required documents contain information about any rules and regulations attached to a particular unit in a condominium building, a statement of any liens or other unpaid assessments against the unit, insurance information, and other information common to the sale of a condo, some of which should be publicly available. Ahrendt said that after he received a written offer on his condo in May, he was instructed to use CondoCerts to obtain the documents, and was forced to pay the \$370 in fees or risk losing his buyer.

"To be clear: a selling unit owner's failure to turn over the ICPA documents to the potential buyer will terminate a real estate sale and the selling unit owner could be precluded from selling his own real property," the complaint said. "This can cause litigation, monetary and nonmonetary damages for seller."

Among the four counts in the complaint, Ahrendt and the sellers said CondoCerts violated the ICPA, as the Illinois law caps the "reasonable fee" associated with copying and providing the documents to the direct out-of-pocket cost incurred by the provider. As Ahrendt alleged CondoCerts has basically no cost on its end to provide the documents, as evidenced by the speed with which the documents are provided, the suit claims the \$370 is not "reasonable."

Other counts in the suit include allegations CondoCerts violated the Illinois Consumer Fraud and Deceptive Business Practices Act and that it unjustly enriched itself.

Monday's complaint asks the court to certify a class including anyone who paid CondoCerts for the ICPA documents dating back to Nov. 20, 2012. The complaint also seeks more than \$5 million in

damages, interest and court costs for the case.

Representatives for the parties could not be reached for comment on Wednesday.

Arendt is represented by Elizabeth M. Al-Dajani and Karnig S. Kerkonian of Kerkonian Dajani LLC, James X. Bormes and Catherine P. Sons of the Law Office of James X. Bormes PC, and Kasif Khowaja of The Khowaja Law Firm LLC.

Counsel for CondoCerts could not be determined on Wednesday.

The case is Ahrendt v. Condocerts.com Inc., case number 1:17-cv-08418, in the U.S. District Court for the Northern District of Illinois.

--Editing by Adam LoBelia.