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Internet-based Hotel Room Wholesalers Lose Class Action Lawsuit Over Unpaid Hotel Occupancy Taxes; Jury Awards \$20 million to 170 Texas Cities

Closely watched trial over unpaid hotel occupancy taxes could impact cities nationwide

SAN ANTONIO, Oct. 30, 2009 - The national law firm of McKool Smith is announcing a \$20 million jury verdict handed down today on behalf of more than 170 Texas cities in a class-action lawsuit against online hotel booking companies over unpaid hotel occupancy taxes.

Texas cities large and small stand to gain from this closely watched case, while hundreds of municipalities across the country have either filed their own hotel tax lawsuits or are considering filing claims aimed at reclaiming lost tourism tax revenue from Internet-based hotel room wholesalers.

The city of San Antonio was the first Texas city to sue the hotel retailers, which include Expedia Inc., Hotels.com, Priceline.com Inc., and Travelocity Inc., among others. More than 170 additional Texas cities joined the class-action to recover taxes that were paid by consumers but never remitted to city governments. McKool Smith also represents multiple cities and state and local governments outside Texas in similar claims, including San Francisco, San Diego, Anaheim, Calif., and Broward County, Florida, among others.

According to the lawsuit filed in May 2006, online booking companies underpaid transient occupancy taxes by paying taxes only on wholesale room rates rather than the actual retail rates charged to customers who book their hotels online. For example, online wholesalers purchase rooms at discounted rates, and then make a profit by re-selling the rooms to consumers at higher retail rates. Typically, if a company like Expedia.com pays \$70 for a hotel room but later resells it for \$100 plus taxes, then the company will only remit taxes for the lesser amount.

The four-week trial before Judge Orlando Garcia of the U.S. District Court for the Western District of Texas concluded following five hours of deliberations by a jury of seven men and five women. The jury's \$20 million verdict could increase with statutory penalties and interest.

The McKool Smith team representing the City of San Antonio and other Texas cities and municipalities included lead counsel Steven Wolens and fellow firm principals Gary Cruciani, and Tom Graves, along with firm associate Michael Fritz.

"This entire industry has systematically withheld taxes for years, and not just in Texas," says lead trial attorney Mr. Wolens. "The business practices for which the defendants were found

liable are the same actions that these companies engage in throughout the U.S."

Cities depend on hotel occupancy taxes to fund improvements to their tourism infrastructure, among other things. For San Antonio, tourism is one of the top employers and revenue generators, contributing an estimated \$7.2 billion to the local economy annually.

McKool Smith is recognized as one of the premier trial law firms in the United States based on significant courtroom victories and substantial settlements for domestic and international clients. With more than 100 attorneys in Dallas, Austin, Marshall, New York, and Washington DC, McKool Smith handles commercial, intellectual property and white collar litigation for companies and individuals, including major airlines, telecommunications companies, medical device manufacturers, oil & gas concerns, and many others. McKool Smith is recognized in The National Law Journal for winning more of the Top 100 Verdicts of 2008 than any other law firm in the country.

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