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FAULTY-DISK SETTLEMENT GETS COMPUTERS TO NEEDY

By JENNIFER HARPER, Washington Times

Needy Americans will have access to plenty of computers in the next few years, courtesy of some faulty floppy-disk drives and a trio of canny Texas lawyers.

It is a legal saga with a happy ending, though not without a few contentious underpinnings.

Three years ago, Ethan Shaw and Clive Moon of Beaumont, Texas, filed a class-action lawsuit against Toshiba America Inc. They said 5.5 million Toshiba laptop computers contained faulty floppy disks that could damage data and that consumers were entitled to some compensation.

Rather than wade through a court battle and risk bad publicity, Toshiba agreed to pay out \$2.1 billion to almost 2 million owners of the flawed laptops, either in cash rebates or discount coupons.

There was a considerable amount left over, however. Some folks never bothered to file their claim forms.

The three Beaumont-based lawyers behind the victory — Wayne Reaud, Gilbert Low and Hubert Oxford — appealed to the federal judge in the case to allow them to use \$350 million in unclaimed funds "for the public good." The judge agreed.

The lawyers founded the Beaumont Foundation of America last year "as an extraordinary example of how the civil justice system can make a difference in the lives of all Americans," according to a statement.

The money would be used to furnish new Toshiba computers and wireless Internet technology to faith-based and social-interest groups, boys and girls clubs, rural children, and "everyone, everywhere, anytime" who just can't meet the cost of computers.

"I hope to see that no child in this country is denied access to a computer, nor to see a child in this country with access to a computer but without a teacher who can teach how to use it," said Mr. Reaud, founder.

The group's director, W. Frank Newton, called it the "principle of digital equity," and intends for the foundation to "serve as a model for similar settlements and give rise to a

new form of philanthropy."

The organization has begun pilot programs with school systems in Manhattan and a half-dozen Texas towns, five community groups in Chicago and American Indian groups in North and South Dakota.

Grants from \$20,000 to \$200,000 will be distributed during the next five years, facilitated by 20 charitable and social-service organizations, including the YMCA, Boy Scouts of America and the National Association for the Advancement of Colored People.

Other interested groups, schools and individuals have until March 31 to apply for grants this year; information is available at the foundation Web site (www.bmtfoundation.com) or by calling 866/505-2667.

There are some who have criticized the original lawyers in the Toshiba case, even with such a benevolent outcome.

Houston-based Citizens Against Lawsuit Abuse, a self-proclaimed 45,000-member legal watchdog group, says it believes the case against Toshiba was weak because there had never been any consumer complaints and no proof of harm offered in court.

"It reminds me of the lawyer spoof from 'Saturday Night Live': Let us help you collect the money that you didn't even know you were entitled to," wrote group President Cora Sue Mach in an editorial after the case was settled.

She also said Mr. Reaud and his firm filed class-action suits against four other major computer companies for flawed floppy disks and that such litigation would inspire copycat lawsuits.

Indeed, there are other cases. Wired magazine has traced politically charged, multimillion-dollar class-action lawsuits against high-tech companies to 1990, deeming the trend a "strange virus gripping Silicon Valley."

More recently, Microsoft agreed Jan. 10 to begin paying out \$1.1 billion in purchase vouchers to California consumers, schools and businesses, the result of a 1999 class-action suit that said the company overcharged customers for its Windows system.

The deal provides that a third of the value of any unclaimed vouchers reverts to Microsoft and that the company maintains no admission of fault. Similar class-action lawsuits against Microsoft are pending.