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Amway cases move forward

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St. Joseph News-Press

More than five years after wading into the labyrinthine world of network marketing, St. Joseph attorney Dan Boulware may be getting his chance to face Amway in front of a jury.

"We're fighting over what ballpark the game is going to be played in," Mr. Boulware said. "We've put in a lot of effort to make sure we can be in the courts. It's obvious the defendants don't want us to be there."

Mr. Boulware is representing plaintiffs, including Amway distributors in St. Joseph, in a pair of lawsuits that challenge the business practices of a multi-level marketing corporation that reported more than \$6 billion in sales last year.

The first lawsuit was filed in 2000 over allegation that Amway prevents lower-level distributors, who market products such as soap and cosmetics, from participating in the highly profitable sale of books, videos and other motivational materials. Plaintiffs in the lawsuit include St. Joseph compa-

nies Netco Inc. and Schmitz & Associates.

The Missouri Supreme Court ruled in favor of the plaintiffs this summer in a case challenging the arbitration procedures in disputes with Amway. A similar case went Mr. Boulware's way in the U.S. Eighth Circuit Court of Appeals earlier this month.

Most of the legal debate has centered on whether a distributor's dispute should be handled through arbitration, as Amway prefers, or go through an outside judge and jury.

The lawsuits allege that some of the distributors did not sign

arbitration agreements, while Mr. Boulware, of the law firm Shughart, Thomson & Kilroy, said the whole arbitration process is designed in a way that Amway wins and distributors have to pay millions of dollars in legal fees.

"It's not a fair deal," he said.

In a written statement, Amway said it was disappointed with the rulings but did not feel its business model would be affected. "The arbitration program will continue to serve as a valuable tool in resolving any disputes," the statement said, adding that it was "confident it will prevail."

Mr. Boulware's cases could have an impact on state politics in Michigan, where Amway was founded. Dick DeVos, the son of Amway's co-founder, is running as a Republican for governor of Michigan. In 2000, Mr. DeVos oversaw a corporate restructuring that created Alticor, the parent company of Amway.

If Mr. DeVos wins in November, the timing of the court cases means Mr. Boulware may be in a position to seek a sworn deposition from the sitting governor of Michigan. "If he's governor, we'll have to depose him when he's governor," Mr. Boulware said.