

November 23, 2009

Our Class Action Preservation Project and Access to Justice Campaign have just scored a major victory in the U.S. Court of Appeals for the Ninth Circuit, striking down provisions in DirecTV's form contract designed to bar its customers from bringing class actions against it.

The Court ruled that DirecTV's contractual class action ban violates a "fundamental policy" of California and that the company could not use the "choice-of-law" provision in its contract to avoid the application of California law in this case.



The plaintiffs allege that DirecTV engaged in a "bait-and-switch" scheme in which it markets satellite television receivers but then informs customers -- after the sale -- that the equipment has only been "leased" not purchased. Customers are told they must pay additional long-term monthly fees or face cancellation penalties. Such a scheme is forbidden in California.

The company tried to block the case by arguing that California law did not apply to the contracts of non-California customers, thus invoking a choice-of-law clause that selects the law of each customer's home state.

The Ninth Circuit agreed with Public Justice that enforcement of DirecTV's choice-of-law clause violates California's fundamental public policy against exculpatory class action bans, and that, because DirecTV is based in California and the alleged wrongful acts emanated from that state, California has a "materially greater interest" in applying its own laws. That decision affirmed a previous ruling by the U.S. District Court for the Central District of California.

To read the decision, [click here](#).

Congratulations and thanks to Public Justice Staff Attorney Paul Bland, who argued the appeal; Staff Attorney Leslie Bailey, Goldberg, Waters & Kraus Fellow Amy Radon, and Baron-Brayton Fellow Melanie Hirsch, who wrote the brief; and our co-counsel, Mark J. Tamblyn of Sacramento and Robert S. Green of San Francisco.

Congratulations and thanks to you, too, for helping make this victory possible. Keep fighting and have a great Thanksgiving holiday!

Arthur Bryant
Executive Director
Public Justice and the
Public Justice Foundation

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