

## Consumers have a stake in U.S. Supreme Court case; AT&T vs. Concepcion goes before court Tuesday

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**Sheryl Harris, The Plain Dealer**

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The U.S. Supreme Court today heard arguments in a case that could dramatically limit consumers' ability to band together in class-action suits.

Attorneys for consumers and companies are closely watching the case, which pits AT&T Mobility against a California couple, Vincent and Liza Concepcion.

Ostensibly, the case is about whether federal arbitration law, which encourages taking disputes to arbitration, trumps state laws that prohibit efforts to curb class-action suits.

But **Paul Bland, a Public Justice** attorney and longtime mandatory arbitration foe, says the case could do to consumer class-action suits what Citizens United did to campaign finance laws -- undo them.

It could affect consumer disputes with companies that routinely include arbitration clauses in take-it-or-leave-it contracts -- cell phones, cable, credit card companies are just a few -- as well as employee cases against employers.

The Concepcions sued AT&T after the company charged them \$30 in sales taxes on phones advertised as "free" with bundled services.

AT&T's contract requires consumers who have a beef with the company to take their disputes individually to arbitration. The company says its arbitration policy is consumer-friendly to the point of awarding customers as much as \$7,500 if they win, even if the disputed amount is much smaller.

But the Concepcions contend that allowing companies to use arbitration clauses to bar class actions runs counter to the public good because it prevents people from banding together to enforce state consumer laws.

Class actions are useful in small-dollar disputes like this, where a company dings individual consumers for relatively small amounts that, multiplied by hundreds of thousands of consumers, could add up to big bucks for the companies.

A consumer would be hard-pressed to find an attorney willing to take on a individual case over \$30 -- or to get a company's attention over such a small claim.

But by banding together, consumers have more clout. If they win in court, the collective award may be large enough to convince a company to change its practices.

The U.S. Ninth Circuit Court of Appeals, in its ruling for the Concepcions, noted that by barring group actions, AT&T could quickly

reimburse consumers who dispute the charges to head off arbitration. That would allow the company to avoid the hefty arbitration pay-out and still continue to assess questionable charges against thousands of other consumers who might not have noticed the discrepancy -- or who may be reluctant to enter into arbitration.

News reports said justices seemed skeptical of AT&T's contentions in oral arguments today, although arguments don't always predict how the court will rule.

The court posts audio of the arguments at [supremecourt.gov](http://supremecourt.gov) on Fridays. The case is AT&T Mobility v. Concepcion, 09-983.

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