

PUBLIC JUSTICE E-LERT

AMERICA'S PUBLIC INTEREST LAW FIRM

August 5, 2011

It's bad enough when your car gets repossessed. But for many the problems don't end there.

Here's why: if a bank repossesses your car but then sells it for less than the amount still due on the contract, the bank can exercise its right under state law to seek deficiency payments from you to cover the balance. However, the bank is only entitled to deficiencies *if it complies with state laws that protect consumers*, such as laws requiring it to give you, the consumer, certain kinds of notices -- e.g., how much your car is worth and how much it can be sold for. Only with full and accurate disclosure laws can you, and all other consumers, be protected from abusive lenders who try to cheat people out of their equity in repossessed cars.

But now consumers can rest assured that national banks (like all other lenders) must comply with state consumer-protection laws requiring them to make such disclosures. Public Justice just won a unanimous ruling from the U.S. Court of Appeals for the Ninth Circuit in *Aguayo v. U.S. Bank* that federal laws governing national banks do not trump state laws -- and that the banks must comply with those state laws requiring the proper disclosures that protect consumers.



U.S. Bank and other national banks argued that they don't have to comply with these state laws; they say they are governed only by federal law. But the Ninth Circuit rejected that argument, holding that, if national banks wish to exercise their rights under state law to collect consumer debts, they must comply with the corresponding rules that protect consumers -- state law rules designed to ensure that consumers are given accurate information about repossessions.

Congratulations and thanks to the entire legal team -- Public Justice Senior Attorneys Paul Bland and Leslie Brueckner, Staff Attorney Claire Prestel, and Brayton-Thornton Attorney Melanie Hirsch; Andrew Ogilvie and Carol Brewer of Anderson, Ogilvie & Brewer LLP in San Francisco; and Michael Lindsay in San Diego.

To read the Ninth Circuit's decision, [click here](#).

Congratulations and thanks to you, too, for helping make this groundbreaking consumer rights victory possible.

Arthur Bryant

Executive Director

Public Justice and the
Public Justice Foundation