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NEWS RELEASE

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WASHINGTON SUPREME COURT UPHOLDS RIGHTS OF CUSTOMERS TO SUE AT&T

*COMMUNICATIONS GIANT NOT PERMITTED TO BAN CLASS
ACTION CLAIMS OR SIDESTEP CONSUMER PROTECTION LAWS*

Washington state long distance customers won an important victory Thursday when the state Supreme Court rejected AT&T's effort to nullify state consumer protection laws by contract in a case involving illegal billing charges.

McKee v. AT&T claims that AT&T has charged thousands of Washington residents "city utility surcharges," even when those customers did not live in municipalities that are subject to the surcharge.

The vast majority of the customers might never have known that they had been wrongfully charged the tax in the first place. Although the claims add up to millions of dollars in the aggregate, AT&T customers would not have been able individually to find lawyers willing to handle a claim involving overcharges of only \$2 month. As the Washington Supreme Court recognized, those claims could only be meaningfully pursued as a class action

The Court struck down provisions of AT&T's standard contract that:

- barred customers from bringing class actions against it;
- contained a gag rule requiring consumers to keep secret any dispute they might have with AT&T;
- shortened the statute of limitations that consumers would have to bring suits under the state's consumer protection act; and
- that limited the types of damages cheated consumers could receive.

"AT&T tried to escape from Washington's strong consumer protection laws by saying that it was only required to follow the laws of New York, which are much less favorable for its customers," noted Leslie A. Bailey, a Staff Attorney with Public Justice who was the lead author of the briefs on the appeal. "The Washington Supreme Court rightly rejected AT&T's ploy, saying that corporations cannot limit the protections of Washington consumers by choosing the weaker laws of other states. If the Court had agreed with AT&T, the company could have stripped its

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customers of any realistic chance of protecting themselves from the kind of overcharges involved in this case.”

AT&T argued that Washington state’s normal contract laws and consumer protection act could not be applied to its contract, because the Federal Communications Act (“FCA”) and the Federal Arbitration Act (“FAA”) supposedly preempted those laws.

“The Washington Supreme Court wisely saw through AT&T’s effort to exempt itself from state consumer and contract laws,” said F. Paul Bland, Jr., a Staff Attorney with Public Justice who argued the appeal in the Washington Supreme Court. “Those federal statutes were never intended to exempt long distance carriers from the normal laws that keep corporations of all types from imposing unfair contract terms on American consumers.”

In addition to Bland and Bailey, plaintiff’s counsel included Scott Kane of Lacy & Kane in East Wenatchee, Washington.

Key briefs and the Washington Supreme Court’s decision in the *McKee* case are posted on Public Justice’s web site, www.publicjustice.net.

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