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### **Ninth Circuit Rules that Federal Banking Laws Do Not Preempt California Debt Collection Statute**

In a decision issued Monday in *Aguayo v. U.S. Bank*, the federal Ninth Circuit Court of Appeals agreed with Public Justice that national banks cannot ignore state debt collection laws that protect consumers.

Public Justice represented Jose Aguayo, who bought a car from a southern California dealership, which then assigned his contract to a federally chartered bank in a transaction over which Aguayo had no control.

When Aguayo later ran into trouble making his payments, U.S. Bank repossessed his car and sent him a notice that did not comply with certain California consumer-protection requirements. U.S. Bank then demanded additional sums from Aguayo after it sold his vehicle – money it was not entitled to because its post-repossession notice had not complied with California law.

But U.S. Bank claimed that as a national bank, it could exercise all the debt collection rights granted under state law without having to comply with a state's consumer protection laws.

Public Justice opposed the bank's immunity argument, and the Ninth Circuit rejected it in a unanimous panel opinion, holding that federal laws governing national banks do not trump state laws that address debt collection, like those governing post-repossession notices.

The court ruled that if national banks exercise their rights under state law to collect consumer debts, they have to comply with the corresponding rules that protect consumers' rights. Any other result would leave consumers in this situation entirely unprotected because there is no federal law that applies, the court noted.

"We're extremely pleased with this victory for consumers' rights," said Public Justice staff attorney Claire Prestel, who wrote the briefs in the case. "It is clear from federal banking law that debt-collection regulation has always been left to the states. A bank's national status does not immunize it from state laws that protect consumers."

In addition to Prestel, Aguayo was also represented by Public Justice Senior Attorney Paul Bland, Senior Attorney Leslie Brueckner, and Brayton-Thornton Attorney Melanie Hirsch; Andrew J. Ogilvie and Carol M. Brewer of Anderson, Ogilvie & Brewer LLP in San Francisco; and Michael E. Lindsey in San Diego.

An *amici* brief supporting Public Justice's arguments against U.S. Bank was filed by the Center for Responsible Lending, AARP, National Consumer Law Center, National Association of Consumer Advocates, Consumers for Auto Reliability and Safety, Asian Pacific American Legal Center of Southern California, California Reinvestment Coalition, Law Foundation of Silicon Valley, and Housing and Economic Rights Advocates.

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