



## **NEWS RELEASE**

FOR IMMEDIATE RELEASE

March 26, 2010

### **U.S. Supreme Court to Hear Public Justice Challenge to Mandatory Arbitration for Wronged Rent-A-Center Employee**

In a landmark case that threatens even the most basic ability of consumers and employees to gain access to courts, the Supreme Court has agreed to hear *Jackson v. Rent-A-Center*, the second Public Justice case the high court will decide this year.

At issue is whether an employer may evade court challenges to the enforceability of its arbitration clause. Argument is scheduled for late April, one month after the Supreme Court oral argument in *Hui v. Castaneda*, a Public Justice case that raises constitutional claims.

Antonio Jackson was an employee of Rent-A-Center. As a condition of his employment, signed a contract that Rent-a-Center argues gives the arbitrator the “exclusive authority” to decide whether the arbitration clause itself is enforceable.

Jackson sued Rent-a-Center, alleging race discrimination and retaliation. Rent-A-Center moved to dismiss and compel arbitration.

Jackson argued that the arbitration agreement was substantively unconscionable and therefore unenforceable. Rent-A-Center responded that the arbitrator should decide whether its arbitration clause was unconscionable.

The district court agreed with Rent-a-Center, but the U.S. Court of Appeals for the Ninth Circuit reversed, and held that a court should decide the challenge to the arbitration clause.

Rent-A-Center asked the Supreme Court to reverse the Ninth Circuit’s decision, arguing that since Jackson signed the agreement, he should be bound by whatever the agreement said, including that an arbitrator – and not a court – should decide whether the agreement met even the most basic elements of fairness.

Since corporations began forcing their employees and consumers to sign arbitration clauses as a condition of having a job or getting basic consumer services, courts have played an important role in policing the fairness of arbitration agreements. For example, courts have struck down arbitration clauses that required employees and consumers to pay unfairly large sums of money

to arbitrators to have their claims heard, or arbitration clauses that made individuals travel across the country to raise their claims.

If the Court agrees with Rent-a-Center, then corporations can write their standard form contracts to eliminate court review of the fairness of arbitration clauses before they are enforced, letting arbitrators be the ones who decide if their own fees are too high or their own processes are unfair. Meaningful judicial review of the fairness of arbitration clauses would disappear. If Rent-a-Center prevails, parties will be free to write courts out of the equation, leaving arbitration to be policed only by arbitrators themselves.

The case is being handled by the Supreme Court on an expedited basis, and will be argued on April 26 by lead counsel Ian Silverberg of the Hardy Law Group in Reno, NV. He and Public Justice will argue that the Federal Arbitration Act was intended to ensure that courts play the role they've played in recent years to protect against abuses, and that Congress never intended to permit a system where only parties with a clear conflict of interest would safeguard the rights of employees and consumers.

Del Hardy of the Hardy Law Group and Public Citizen are co-counsels in the case.

###

Public Justice is America's public interest law firm, supported by – and calling on -- a nationwide network of more than 3,000 of the nation's top lawyers to pursue precedent-setting and socially significant litigation. It has a wide-ranging litigation docket in the areas of consumer rights, worker safety, civil rights and liberties, toxic torts, environmental protection, and access to the courts. Public Justice is the principal project of the Public Justice Foundation, a not-for-profit membership organization headquartered in Washington, DC, with a West Coast office in Oakland, California. The Public Justice web site address is [www.publicjustice.net](http://www.publicjustice.net).