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Federal Appeals court clears way for DirecTV lawsuit for alleged ‘bait and switch’ scheme

In a major victory for consumers, the Ninth U.S. Circuit Court of Appeals recently held that DirecTV’s contractual ban on customers bringing class actions against it violates a “fundamental policy” of California.

The Court also ruled that, because DirecTV is headquartered in California and the national class action lawsuit is based on California law alone, DirecTV could not use the “choice-of-law” provision in its contract to avoid the application of California law in this case.

“DirecTV knew that if it could avoid the application of California law and a nationwide class action, it could cheat customers in many states with impunity, because some states permit corporations to ban class actions,” said Public Justice Staff Attorney Leslie Bailey, who was the principal author of the appellate brief. “Now that the company can no longer hide behind its contract, its customers will have their day in court.”

The plaintiffs in this putative nationwide class action allege that DirecTV has violated California consumer protection laws by engaging in a “bait and switch” scheme in which it markets satellite television receivers for purchase, informing customers only after the sale is completed that they have merely “leased” the equipment and must pay additional long-term monthly fees or incur cancellation penalties.

DirecTV’s consumer contract includes a term banning its customers from bringing or participating in a class action ban, but a California court had earlier ruled that the class action ban is unenforceable under California law. DirecTV sought to block the case by arguing that California law did not apply to the contracts of non-California customers.

“This victory allows us to vigorously pursue the claims of our clients throughout the United States,” said Michael Reese of New York, co-counsel in the case. “We look forward to bringing them justice in this matter.”