

## Kentucky Supreme Court says Insight customers can pursue class-action suit

By Patrick Howington • phowington@courier-journal.com • December 20, 2010

Insight customers who lost Internet service for up to several days during a 2006 upgrade may be able to pursue claims through a class action suit because of a Kentucky Supreme Court ruling.

The court overturned two lower courts that said customers must pursue their claims individually through arbitration or small-claims suits.

Those rulings said customers were bound by a clause in their contracts with Insight that forbids customers from banding together.

But the high court sided with four Insight customers who argued that a class action is the only practical way for a large number of customers to pursue claims that, on average, might be about \$40 — far too little to justify hiring a lawyer.

A class action “is often the only economically viable legal procedure” to address a large volume of very small claims, the court said in an opinion issued Thursday.

For that reason, it said, a ban on class actions like the one in Insight’s contract “may effectively shield a company from liability for unlawful activity.”

The Internet disruptions, which caused many customers to lose important e-mails, occurred as Insight switched from an AT&T network to its own system. The cable provider had partnered with AT&T for several years.

Insight said about one-third of its 500,000 Internet customers in four states, including about 100,000 in the Louisville area, reported “significant” disruptions during the changeover.

Insight gave about 2,600 customers credits for their lost Internet time, but the company determined the amounts.

The Supreme Court ordered the suit sent back to Jefferson Circuit Court, where customers now may be able to bring their claims as a group.

The court also voided a provision in Insight’s contract saying customers who pursue claims in arbitration can’t disclose the results.

**Public Justice**, a national public-interest legal organization that argued for Insight customers in the case, said the decision could provide a basis for consumers to pursue class actions against other corporations.

Insight spokesman Jason Keller said the company is reviewing the decision and hasn’t decided whether to appeal.

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