

July 01, 2009

**Our Access to Justice Campaign and Mandatory Arbitration Abuse Prevention Project just helped win a major victory for consumers. In *Komarova v. National Credit Acceptance, Inc.*, the California Court of Appeal held -- as our *amicus* brief urged -- that arbitrations before the National Arbitration Forum (NAF) do not shield debt collectors from liability for violating consumers' rights.**



The plaintiff in *Komarova* was hounded by debt collectors over a debt that did not belong to her. The debt collector obtained an arbitration award from NAF -- against a woman with a similar name -- and then attempted to confirm the award against Ms. Komarova in court. Ms. Komarova sued the debt collector for violating California's Rosenthal Fair Debt Collections Practices Act (the Rosenthal Act) and won a sizeable jury verdict. The debt collector appealed, however, and argued that it was immune from suit because its harassment of Ms. Komarova was related to a "quasi-judicial" proceeding -- the NAF arbitration.

**Citing a wide array of media reports, studies, and judicial cases, Public Justice filed an *amicus* brief explaining why consumers would be seriously harmed if debt collectors were able to immunize themselves from liability merely by engaging in NAF arbitration.** The brief shows that (1) NAF's financial interests are strongly aligned with those of banks and debt collectors; (2) NAF markets itself to creditors as a way to save them money in the debt-collection process; (3) NAF funnels arbitrations to business-friendly arbitrators and blackballs those who rule in favor of consumers; (4) NAF routinely enters awards against consumers who are victims of identity theft, never agreed to arbitrate their disputes, or were never properly served; and (5) out of tens of thousands of awards entered by NAF arbitrators, all but a handful have been against consumers.

**The court held -- as we urged -- that the NAF arbitration did not exempt the debt collector from liability.** This is a substantial victory for California consumers; debt collectors may not use arbitrations before NAF as a shield against being held accountable for their violations of the Rosenthal Act.

To read the California Court of Appeal's decision, [click here](#).

To read our *amicus* brief, filed on behalf of Public Justice and the National Consumer Law Center, [click here](#). A number of other organizations, including the San Francisco and Los Angeles City Attorneys, Bay Area Legal Aid, and the Legal Aid Society of San Mateo County, also filed *amicus* briefs.

Congratulations and thanks to Brayton-Baron Fellow Melanie Hirsch, who authored our *amicus* brief with assistance from Staff Attorney Leslie Bailey. Congratulations and thanks, too, to Justin Berger and Anne Marie Murphy of Cotchett, Pitre & McCarthy, who handled the case.

And congratulations and thanks to you for helping make this victory possible. With your support, we will continue to fight mandatory arbitration abuse and battle for access to justice for all.

Arthur Bryant  
Executive Director  
Public Justice  
& the Public Justice Foundation

**P.S. Please forward this email to friends and colleagues who'd be interested. (When you do so, delete the information below about unsubscribing, or they could unsubscribe you.) To make a special contribution, renew your membership, or join us, please [click here](#).**

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