

PUBLIC JUSTICE



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NEWS RELEASE

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PUBLIC JUSTICE PREVAILS IN CASE AGAINST COMPUTER GIANT

High Court in New Mexico Upholds “Fundamental” Access to Justice for Consumers

Consumers won a resounding victory against an electronics powerhouse on Friday, when the New Mexico Supreme Court rejected Dell Computer Corporation’s attempt to bar class action claims against the company.

The state’s high court unanimously held in *Fiser v. Dell* that the company deprived its customers of fair redress and relief by imposing a ban on group claims and insisting on individual claims “when the cost of bringing a single claim is greater than the damages alleged.” In *Fiser*, the plaintiffs alleged that Dell misrepresented the amount of memory in its computers and violated the state’s consumer protection laws. They each claimed \$10-\$20 in damages for the misrepresentations.

Dell argued that its contracts should be governed by the laws of Texas, home of the company’s headquarters, and not New Mexico. Texas law would allow a ban on class actions. But that, ruled the court, flies in the face of a “fundamental New Mexico policy” that allows class actions as a vehicle to relief. Allowing Dell to enforce a ban would be allowing the company to exempt itself from New Mexico’s consumer protection laws, the court said Friday.

Indeed, the court ruled that the ban on class actions was in and of itself so unconscionable that it did not matter whether the contract amounted to a “take-it-or-leave-it” proposition.

“The decision is thoughtful, scholarly and exceptionally persuasive,” said Paul Bland, the Public Justice attorney who argued the case. “We expect this decision to be extremely significant to other courts around the nation as the law in this area continues to develop.”

In addition to Bland, Austin Tighe of Austin, Tex., also argued for the plaintiffs. Amy Radon, the Goldberg, Waters & Kraus Fellow at Public Justice, was the principal author of Public Justice’s *amicus* brief in the case. Other counsel for the consumers were Whitney C. Buchanan and Ronald C. Morgan, both of Albuquerque, NM.

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