

NEWS RELEASE

FOR IMMEDIATE RELEASE

July 12, 2007

Contact: Deborah Mathis, Communications Director, at (202) 797-8600 Ext. 246

WASHINGTON STATE SUPREME COURT STRIKES DOWN CINGULAR'S CLASS ACTION BAN AS 'UNCONSCIONABLE'

Public Justice wins nationally-significant victory for consumers

In a victory for tens of thousands of cellular phone customers and for all Washington consumers, the **Washington Supreme Court today ruled that Cingular Wireless cannot insulate itself from liability for violating consumer protection laws by banning its customers from bringing class actions against it.** In *Scott v. Cingular Wireless*, the court joined the growing number state and federal courts around the country striking down class action bans that would effectively prevent consumers from holding corporations accountable for wrongdoing.

Public Justice, America's public interest law firm, based in Washington, DC, argued in *Scott* that Cingular's class action ban is "unconscionable" under state law because it forces customers to arbitrate their individually-small claims one-by-one and denies them the option of acting as a group with a common grievance for any reason. Public Justice also argued that federal law does not trump state laws that preclude companies from barring class actions in contract provisions. The court strongly agreed on this point too, recognizing that federal law "favors arbitration, not exculpation."

"This decision is likely to have a significant influence on the way other courts think about this issue," said **Paul Bland of Public Justice**, who argued the appeal. "A number of courts around the country are wrestling with this issue right now, and the Washington Supreme Court's opinion is so thoughtful and well-reasoned that it is likely to persuade many other courts to also protect consumer rights."

In striking down the class action ban, the court emphasized that, if Cingular's customers couldn't bring a class action, they would be prevented from pursuing valid claims against the company. Writing for the 6-3 majority, Justice Tom Chambers stated that, if enforced, Cingular's class action ban would "effectively den[y] large numbers of consumers the protection of Washington's Consumer Protection Act." The court also recognized that class actions are necessary to "strongly deter future similar wrongful conduct, which benefits the community as a whole."

Because Cingular included its class action ban in a contract provision requiring mandatory arbitration, but made the provision inapplicable without the class action ban, the case will now proceed in court.

“This decision sends a strong message to corporations that they can’t draft contracts that place them above the law,” said **Leslie Bailey of Public Justice, co-counsel for the plaintiffs**. “The court recognized that Cingular was trying to prevent its customers from bringing the only type of case that could stop it from cheating lots of customers out of small sums of money, as it did in this case: a class action.”

The case arose when Cingular allegedly charged roaming and long distance fees despite its promise to provide those services for free. When its customers sued in state court in 2004, Cingular tried to force them to arbitrate their claims individually. The trial court ruled in Cingular’s favor and the appellate court denied the consumers’ appeal, but the state Supreme Court granted review. The high court’s decision invalidating the class action ban – and thus the arbitration clause – means that the plaintiffs’ claims can now go forward in court.

In addition to Bland and Bailey, the plaintiffs’ legal team in *Scott* includes Seattle attorneys **Douglas S. Dunham** and **Stephen J. Crane** of Crane Dunham, and **Steven Rosen** of the Law Offices of Steve Rosen. The case was pursued as part of Public Justice’s Access to Justice Campaign and Class Action Preservation Project.

The Washington Supreme Court ruling in *Scott v. Cingular Wireless* and the Public Justice briefs in the case are posted at **www.publicjustice.net**.

###