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Nevada High Court Finds Car Dealership's Class Action Ban Unenforceable

The Nevada Supreme Court on Thursday unanimously struck down United Hyundai's motion to compel arbitration of a consumer's lawsuit on an individual basis. The car dealership's motion had previously been granted at the district court level. Now, consumers who have grievances against the dealership will be able to challenge it in a class-action lawsuit.

Plaintiffs William and Beth Ann Picardi alleged that United Hyundai illegally charged new car buyers an emissions testing fee that is only required for used cars, and failed to disclose charges for an aftermarket product and the negative equity earned by purchasers for the trade-in of used vehicles.

After the district court rejected the plaintiffs' arguments against the dealership's arbitration clause, Public Justice, a national public interest law firm, petitioned the Nevada Supreme Court to review the case. The petition argued that United Hyundai's arbitration clause should be found unconscionable under Nevada law because it contains a class action ban, and because it subjects the award of attorneys' fees to the arbitrator's discretion.

The high court accepted the petition, and Public Justice attorney Paul Bland argued the case last year.

In reaching its decision yesterday, the court wrote, "Nevada public policy favors allowing consumer class action proceedings when the class members present common legal or factual questions but their individual claims may be too small to be economically litigated on an individual basis. We conclude that a clause in a contract that prohibits a consumer from pursuing claims through a class action, whether in court or through arbitration, violates Nevada public policy."

"The court saw United Hyundai's class-action ban for what it is," Bland said. "A way to shield itself from any liability, even when customers are cheated."

In representing the plaintiffs, Bland joined George O. West III, of the group Consumer Attorneys Against Auto Fraud. West's Las Vegas law practice emphasizes class-action litigation; he represents consumers who have been misled or deceived in their auto purchases.

“This is a huge victory for consumer in Nevada,” West said. “Today’s decision has much more far reaching implications than just the claims of our clients in this case: it is an affirmative nod from our supreme court that class actions do have an important legal, as well as societal role, here in Nevada.”

The case is *Picardi v. United Hyundai*.

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Public Justice is a national public interest law firm that fights injustice and holds corporate and government wrongdoers accountable. See our website at www.publicjustice.net.