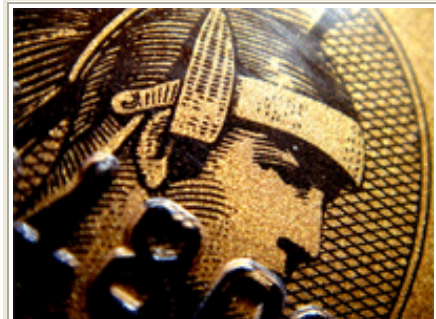


January 30, 2009

Our Access to Justice Campaign and Class Action Preservation Project have just helped win another huge victory! The U.S. Court of Appeals for the Second Circuit issued its decision in *In re: American Express Merchants` Litigation* today and, as we urged, threw out the credit card company's class action ban! The court quotes our *amicus* brief in the decision and says, "We conclude that, on the record before us, the plaintiffs have adequately demonstrated that the class action waiver provision at issue should not be enforced because enforcement of the clause would effectively preclude any action seeking to vindicate the statutory rights asserted by the plaintiffs."



American Express can no longer use its class action ban to avoid liability.

This is a critically-important decision based on federal law. The decision emphasizes that class actions are often essential for achieving justice. It says, "[T]he Supreme Court has repeatedly recognized the utility of the class action as a vehicle for vindicating statutory rights. This is especially true with respect to the Court's recognition that the class action device is the only economically rational alternative when a large group of individuals or entities has suffered an alleged wrong, but the damages due to any single individual or entity are too small to justify bringing an individual action."

The court's holding couldn't be clearer: **"We therefore hold that the class action waiver in the Card Acceptance Agreement cannot be enforced in this case because to do so would grant Amex de facto immunity from antitrust liability by removing the plaintiffs' only reasonably feasible means of recovery."**

To read the Second Circuit's decision, [click here](#).

To read our *amicus* brief in the case, captioned *Italian Colors Restaurant v. American Express*, [click here](#).

Congratulations and thanks to Edith M. Kallas, Ilze C. Thielmann, and Joy A. Nesbitt of Whatley Drake & Kallas, LLC, in New York; Steven E. Fineman and Jennifer Gross of Lief Cabraser Hiemann & Bernstein, LLP in New York; and Public Justice Staff Attorney F. Paul Bland, Jr., for their superb work on this brief.

Congratulations and thanks to plaintiffs' lead counsel Gary B. Friedman of the Friedman Law Group LLP, in New York, and his co-counsel, for their tremendous work in this case.

Congratulations and thanks to you, too, for helping make this great victory possible. We must keep fighting to preserve access to justice for all. - Arthur

Arthur Bryant
Executive Director
Public Justice
& the Public Justice Foundation