

Consumer Protection Client Service Group

To: Our Clients and Friends

September 23, 2009

District of Columbia's Highest Local Court Allows Consumers Who Never Purchased a Product or Service to Sue for Violation of the District's Consumer Protection Act

Large retailers and providers of services to consumers will not be happy with the outcome of a September 17, 2009 ruling of the District of Columbia's highest local court (the D.C. Court of Appeals). The Court ruled that any member of the public can sue retailers or service providers, on behalf of the "general public," to enforce the D.C. Consumer Protection Procedures Act (the "Act") (D.C. Code §§ 28-3901 *et seq.*), even if the plaintiff never purchased or used the product or service. The ruling was handed down in *Grayson v. AT&T Corporation*, No. 07-cv-1264, 2009 WL 2957812 (D.C. Sept. 17, 2009). A copy can be accessed at http://www.dccourts.gov/dccourts/appeals/pdf/07-CV-1264_MTD.PDF.

Most courts had previously ruled that a plaintiff must meet traditional "standing" requirements to sue under the Act by showing that the plaintiff was injured (or threatened with injury) by a violation of the Act. In its latest ruling, the D.C. Court of Appeals concluded that a plaintiff need not show any injury to sue. The Court reasoned that the jurisdiction of District of Columbia's local courts is not limited to actual "cases or controversies" between the parties, as are federal courts established under Article III of the U.S. Constitution. Therefore, a plaintiff can sue for "the general public" under the Act, even if he or she never purchased the product or service. Since the Court of Appeals is the final arbiter of issues of local District of Columbia law, its ruling will control in the future when cases under the Act are brought in the local courts.

This ruling will make it far easier for plaintiff-oriented lawyers to bring lawsuits and class actions against firms that sell products or services to consumers in the District of Columbia. No longer will a lawyer need to find a plaintiff who actually purchased the product or service. Henceforth, any person can serve as a plaintiff, and assert a claim under the Act that sets in motion the judicial machinery permitting class actions or injunctive relief. Businesses are therefore likely to face a spurt in claims under the Act, which permits recovery of treble damages, attorneys' fees, and punitive damages, as well as injunctive relief.

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