

## Korein Tillery's Victory for Consumers in Illinois Supreme Court Likely to Impact Arbitration Cases Nationwide

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ST. LOUIS, Feb 03, 2011 (BUSINESS WIRE) -- The Korein Tillery law firm won an important victory for consumers today in a decision by the Illinois Supreme Court upholding consumers' right to file lawsuits in the courts despite contracts that purport to require binding arbitration. This ruling is likely to have substantial impact on similar cases under consideration by federal and state courts in Ohio, New Mexico, and a number of other states.

"This decision establishes a new rule in the State of Illinois giving consumers the right to file lawsuits when the arbitration forum specified as an integral part of the sales contract is no longer available," said Aaron M. Zigler, the partner at Korein Tillery who argued the case before the Illinois Supreme Court.

"The Court has struck down an arbitration clause that was used to deprive consumers of a meaningful remedy in the face of inappropriate conduct by a merchant. The Court's ruling means that, under these circumstances, companies' one-sided agreements cannot be used to deny consumers their right to their day in a court of law." Korein Tillery filed the case in Illinois state court in 2002 on behalf of consumers who were misled by inflated claims concerning the speed of Pentium 4 computer processors sold by Gateway, Inc. Gateway demanded that the dispute go to arbitration as required by its "Terms and Conditions" booklet included in the box with the computer.

After the National Arbitration Forum (NAF), the sole arbitration provided allowed by Gateway under the Terms and Conditions, stopped performing consumer arbitrations in order to settle a lawsuit brought by the Minnesota Attorney General alleging consumer fraud, deceptive trade practices, and false advertising, Korein Tillery argued that the arbitration provision requirement was void. The Illinois Supreme Court agreed with Korein Tillery that the arbitration forum specified in the contract was "an integral part" of the arbitration clause and the absence of that forum entitled the consumer to seek a remedy in court.

Zigler, who handled the case with Korein Tillery partners Stephen M. Tillery and Robert L. King, said corporations across the country have been increasingly using mandatory arbitration clauses usually buried in small print in agreements for consumers, investors, and employees to prohibit lawsuits in favor of arbitration heavily weighted in companies' favor.

"These arbitration clauses are designed to eliminate consumers' right to their day in court," Zigler said. "There's often no knowledge, choice, or understanding by a consumer and nearly all companies marketing credit cards, phones, mortgages and computers now use them, as do banks, car dealers, doctors, and insurers. There are tens of millions of these agreements and Courts across the country are now deciding whether such clauses can be used to make customers, employees, and shareholders contractually 'waive' all of their rights." Paul Bland, a senior attorney at Public Justice who is involved in appellate litigation challenging arbitration clauses in more than a dozen states, said the decision in Illinois could have far-reaching impact on behalf of consumers.

"This is an important victory for consumers not only in Illinois, but across the nation. This well-reasoned, thoughtful decision is likely to be influential with a number of courts that are considering this same issue," he said.

Zigler pointed out that the NAF agreed to cease conducting consumer arbitrations to settle a lawsuit by the Minnesota Attorney General alleging consumer fraud, deceptive trade practices, and false advertising. The civil suit, filed in state district court in Minneapolis, alleged conflicting ties between the NAF and debt-collection law firms that represented major credit-card companies. Under the terms of the settlement, the arbitration firm stopped accepting new consumer arbitrations of any sort. Shortly after NAF's announcement, the American Arbitration Association voluntarily stopped accepting new consumer debt-collection arbitrations as well.

No date for a trial in the lawsuit against Gateway has been set.

Korein Tillery is an AV-rated, award-winning class action law firm with offices in St. Louis and Chicago that has recovered billions of dollars in verdicts and settlements in a variety of cases across the country involving pension funds, insurance, securities, antitrust, telecommunications, pharmaceuticals, environmental contamination, tobacco, computer technology, and consumer fraud. Perhaps best known for its \$10 billion trial verdict against Philip Morris, the firm has gained a national reputation for aggressively and successfully pursuing a wide variety of complex cases on behalf of its clients.

Korein Tillery was named by the National Law Journal to its "Plaintiffs' Hot List" in 2003, 2004, 2007, and 2008 as one of the top plaintiffs' law firms in all specialties. More information is available at [www.koreintillery.com](http://www.koreintillery.com).

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