

CA Court of Appeals Upholds Lower Court Ruling Calling OptumRx's Forced Arbitration Contract Clause "Unconscionable"

Decision Affirms Lower Court Ruling, Opens the Door for Independent Pharmacies to Publicly Hold OptumRx Accountable for Wrongdoings

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“

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Mark Cuker, Jacobs Law Group

Pharmacists United for Truth and Transparency (PUTT) applauds the decision by the California Court of Appeals to uphold a lower court’s ruling that the forced arbitration clause included in OptumRx’s pharmacy network contract is unconscionable. Owned by UnitedHealth Group, OptumRx is one of the “Big 3” pharmacy benefit managers (PBMs) that together process more than 80% of the patient pharmacy claims submitted through insurance.

“We are encouraged by the Court’s decision and congratulate [Mark Cuker](#) and Jacobs Law Group for their

efforts to champion independent pharmacies whose rights have been violated by OptumRx’s inconsistent and opaque - yet somehow still so very draconian - contract terms,” said Monique Whitney, PUTT Executive Director.

The 41-page decision describes in detail how OptumRx’s contracts meet the legal definition of “unconscionability” in which a contract may be written in such a way as to greatly favor one party over another. Citing issues including any pharmacy’s ability to sign or agree to the contract; OptumRx’s ability to unilaterally change arbitration terms and deny pharmacies the same remedies that are readily available to OptumRx; and pushing arbitration costs - which can exceed \$250,000 per arbitration event - onto the pharmacies while severely limiting pharmacies’ counsel ability to engage in discovery; the Court ultimately ruled that OptumRx’s “unconscionable terms permeate the agreement” and can only be amended by ... augmenting (the contracts) with additional terms.”

“This is a huge win for independent pharmacies seeking to vindicate their rights against the PBMs who have been abusing them for so long,” said Cuker. “We will look forward to holding Optum accountable for its predatory business practices in a public courtroom.”

The case is Platt, LLC et al v OptumRx, Inc., case number A163061, California Court of Appeal, First Appellate District

For more information about Mark Cuker or Jacobs Law Group , see [JacobsLawPC.com](https://jacobsLawPC.com). For additional in-depth information about how OptumRx and other PBMs' practices are obstructing patient care while driving up costs to consumers and end payers, visit TruthRx.org.

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