

PUTT: ILLINOIS APPELLATE COURT WRONG TO REVERSE CALIFORNIA APPELLATE RULING CALLING FORCED ARBITRATION UNCONSCIONABLE

Illinois Court Ruling Ultimately Hurts All Small Businesses Attempting to Compete in a World Dominated by Mega-Corporations

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Monique Whitney

WINSTON-SALEM, NC, USA, May 8, 2023 /

EINPresswire.com/ -- Pharmacists United for Truth and Transparency ([PUTT](#)) today expressed disagreement in the strongest possible terms with the Fifth Judicial District Illinois Appellate Court's decision to rule against the independent pharmacies suing OptumRx over its forced arbitration contract clause. OptumRx, owned by UnitedHealth Group, is one of the “Big 3” largest pharmacy benefit managers (PBMs) in the U.S.

“By reversing California Court decision, the Illinois Appellate Court is sending a dangerous message that it is

acceptable for major corporations to trample on the rights of small businesses - and by extension, consumers - by forcing them into arbitration with rules of engagement that favor the corporation,” said PUTT Executive Director Monique Whitney. “The court's decision undermines the spirit and intention of consumer protection laws and puts small business owners at a significant disadvantage in legal disputes with large corporations. Consumers - including business owners, should not have to bend to the will of their much larger competitors. Our pharmacy owners are entitled to have their day in court.”

The California Appellate court decision described 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. OptumRx's ability to unilaterally change arbitration terms while pushing arbitration costs - which can exceed \$250,000 per arbitration event - onto the pharmacies were among the many reasons the Court ruled OptumRx's forced arbitration as “unconscionable”.

Last month, the Illinois Appellate Court reversed the trial court and ordered the plaintiff and other 42 pharmacies to go to separate arbitration, requiring the pharmacies to travel to California to arbitrate and pay at least \$60,000 in arbitration fees per arbitration.

“The arbitration clause is so one-sided that the pharmacies could not force OptumRx to produce any evidence it does not want to produce,” said Mark Cuker, attorney at Jacobs Law Group, who is representing the Illinois pharmacies against OptumRx. “This means that while California pharmacies can hold OptumRx accountable in court, Illinois pharmacies cannot, even though California law applies to both.”

Cuker and fellow attorney Keith Short’s petition for a rehearing was denied.

“We will ask the Supreme Court of Illinois to take this appeal and so that small businesses have a chance to vindicate their rights against corporate Goliaths in court,” Cuker said. “This not only hurts local businesses, but their patients. Patients should be allowed to go to the pharmacy of their choice—that knows them best and offers the best service—and not be steered to a mail order pharmacy.”

For more information on how PBM practices obstruct patient care while driving up costs to consumers and end payers, visit PUTT’s website at TruthRx.org.

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