

Susman Godfrey L.L.P. Wins Appeal in Cable Antitrust Class in Third Circuit

Dallas, Texas — A class of Comcast cable subscribers in the Philadelphia area last week won an appeal that challenged the trial court's order certifying the case for class treatment.

The case, *Behrend v. Comcast Corp.*, No. 10-2865 (3d Cir. Aug. 23, 2011), involves claims that Comcast overcharged customers for cable service. Comcast bought out competing cable providers to obtain a monopoly in the Philadelphia area, the complaint alleges. Comcast's anticompetitive conduct violated sections 1 and 2 of the Sherman Act and caused class members damages in excess of \$875 million.

The panel ruled 2-1 that the class met all the tests for a class action under Rule 23(b)(3), which allows class handling of claims that present mainly common issues for class members. All three judges agreed that the U.S. District Judge John R. Padova rightly held the question of "common impact" provable with class-wide evidence. The majority also concluded that the class could show damages using common proof.

The lawsuit includes claims relating to Comcast's conduct in the Boston and Chicago markets. Those parts of the case will move forward after the trial court disposes of the Philadelphia claims.

Barry Barnett, a partner in Susman Godfrey's Dallas office, has served as co-lead counsel in the case since it began in December 2003. He argued the appeal for the class in January 2011.

"We look forward to presenting the Philadelphia class's case to a federal jury," Mr. Barnett said. "We'll do that, appropriately, just down the street from Independence Hall and the Liberty Bell." The Supreme Court, he noted, has called the Sherman Act America's "charter of economic liberty".

Susman Godfrey partners Daniel Charest and Stephen Shackelford, Jr., in Dallas and Bill Merrill in Houston have played key roles in the case. Heins Mills & Olson serves as co-lead counsel for the class with Susman Godfrey and Freedman Boyd Hollander Goldberg Ives & Duncan and Bolognese & Associates act as additional class counsel.

Susman Godfrey represents plaintiffs and defendants in antitrust cases, class actions, and other complex lawsuits and arbitrations.