



Supreme Court Raises the Bar for Class Actions

Publication

3.27.13

The U.S. Supreme Court, on March 27, 2013, rendered a pivotal decision, holding that as a prerequisite for certification of a class action, a plaintiff must introduce admissible evidence to show that the case is susceptible to awarding damages on a class-wide basis. This ruling has been much anticipated and will significantly impact the future of employment-related class action lawsuits nationwide (*Comcast v. Behrend*, No. 11-864).

Background

The plaintiffs purport to represent a class of more than two million present and former Comcast cable subscribers in the Philadelphia area. They allege that Comcast monopolized Philadelphia's cable market and excluded competition by engaging in anticompetitive "clustering" – a strategy of swapping cable systems with other cable providers or buying cable providers outright in order to be the only provider in the area.

Comcast's "clustering" activities were designed to eliminate competition, raise entry barriers to potential competition, maintain increased prices for cable services at levels above what can be sustained in a competitive market and deprive the market of effective competition, according to the complaint.

What this Means for Employers

The certification ruling is often the most important decision in a class action because certification creates significant pressure for defendants to settle, regardless of the merits of the case. This decision will not only limit those cases filed as a class action, but also impact the manner in which class actions are litigated.

This article appeared on SHRM.org on March 27, 2013.