

Cahill Litigators Win Denial of Class Certification in Time Warner Case

Date: 10/09/09

On September 2nd, 2009, Cahill obtained an order denying class certification on behalf of Time Warner Cable in a case that has been pending in New York Supreme Court since 2004. A basic cable subscriber brought a putative class action alleging unfair trade practices under General Business Law §349, namely that Time Warner failed to inform her when she subscribed to basic cable that a converter box was not necessary to view basic channels on her cable-ready television.

The Court denied class certification, finding that individual questions -- such as whether basic subscribers might value the converter box, for example, because they wanted to be able to use pay-per-view services -- predominated over common classwide issues.

The Court also found that the basic cable subscriber could not be an adequate class representative because she could not act as an effective check on class counsel, her brother-in-law. Among the circumstances the Court found to suggest that the lawyer, rather than the basic cable subscriber, was the motivating force behind the litigation and that the lawyer had previously brought putative class actions in various courts on behalf of his wife and three of the basic cable subscriber's other sisters.

Attorney

- Jason M. Hall