
Stakes Remain High in Online User Agreement Case

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More than a year ago, Dallas County resident Cathryn Elaine Harris sued Blockbuster Online, the web presence of the video rental giant, in Dallas federal district court. In the suit, Harris claimed the company's arrangement with Facebook, which caused some Blockbuster customers' movie rental choices to be automatically broadcast to their Facebook friends, violated the Video Privacy Protection Act. That act is a federal statute passed in response to the public disclosure of former Supreme Court nominee Robert Bork's video rental records. Harris, who is seeking class action status, is demanding \$2,500 for each violation of the statute.

That effort gained momentum last month when US District Court Judge Barbara Lynn denied Blockbuster's motion to compel arbitration. Judge Lynn ruled that the arbitration clause in Blockbuster's online terms and conditions agreement with its customers was illusory because the company reserves the right to modify the terms "at its sole discretion" and "at any time."

To read more about the case, please click on the client alert, [Blockbuster 'Illusory' Contract Re-ignites Concerns over Enforceability of Online User Agreements](#) written by WilmerHale partners Lynn R. Charytan, J. Beckwith Burr, Samir Jain and senior associate [Will DeVries](#).