

Significant Appellate Victory Won by Rose Suriano

Brach Eichler, led by Rose Suriano, represented a company whose consumer agreements mandated that all disputes and claims be resolved through arbitration. A plaintiff filed a consumer fraud/class action lawsuit in Superior Court despite the arbitration clause in the purchase agreement. However, that same arbitration clause was the subject of two prior Appellate Division opinions, which found that same provision unenforceable, and allowed the plaintiffs' claims in Superior Court.

In Suriano's case, the trial court ruled against her client and found the arbitration provision unenforceable based on the two prior Appellate Division opinions. Suriano raised an argument in the case that was not raised by other counsel in the two prior cases. The Appellate panel that heard the appeal even included two of the same judges who authored the prior opinions, invalidating the arbitration provision, making victory an unlikely outcome.

Suriano recently received the Appellate Division's decision reversing the trial court's ruling, finding the arbitration provision enforceable based on the arguments Suriano raised.

This was a significant win to Suriano's client because it eliminated the plaintiffs' class action claims against the client and because the arbitration provision Suriano sought to enforce is contained in many of the purchase agreements in the industry.