

## Third Circuit Denies Samsung's Efforts to Force Samsung Smart TV Owners to Arbitration

On March 7, 2023, the Third Circuit Court of Appeals unanimously affirmed the District Court's order determining that Samsung had waived its right to arbitrate the action *White, et al. v. Samsung Electronics America, Inc.* BFA represents Plaintiffs, a putative class of SmartTV owners, in this action against Samsung over its improper collection of their data, in violation of the Federal Wiretap Act. Plaintiffs allege that through its Smart TVs, Samsung collected data from owners, including what programs they watch, when they watch them, and certain identifying information, without their consent and then sold that information to third parties, who used it to serve targeted advertising to those same consumers.

In affirming the District Court's decision, the Circuit Court determined that Samsung had waived its right to arbitrate when it contested the merit of Plaintiffs' claims in court motions and when it failed to give timely notice of its intent to arbitrate, among other actions inconsistent with an intent to arbitrate. The Circuit Court's opinion concludes, "Through its actions expressing an intent to litigate, Samsung waived its right to arbitration."

The Circuit Court's opinion represents a major victory for plaintiffs in the case. "We are gratified by the Third Circuit's opinion and look forward to pursuing the putative class' claims in court," says Javier Bleichmar of BFA.

The case is proceeding in discovery in the District Court for the District of New Jersey. A copy of the Circuit Court's opinion can be found under the Downloads & Links to the right.