

Feel cheated? Small claims court brings big wins

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In this Tuesday, Jan. 3, 2012 file photo, Heather Peters, who says her 2006 Honda Civic Hybrid never achieved the gas mileage Honda claimed in its advertising, pleads her case in Small Claims Court in Torrance, Calif. A few recent cases demonstrate that consumers can, if they're motivated enough, win small-claims cases against big companies. These "David versus Goliath" battles were won against the likes of AT&T, Honda and others without lawyers. The plaintiffs paid minor filing fees, gathered their own research and presented arguments in quick hearings that resemble the average "Judge Judy" episode. (AP Photo/Reed Saxon, File)

(AP) -- If you feel cheated by a big company and complaining gets you nowhere, what can you do? A handful of recent cases suggest that

consumers can, if they're motivated enough, win against big companies in small claims courts.

These "David versus Goliath" battles were won against the likes of AT&T, Honda and others, without resorting to lawyers. The plaintiffs paid minor filing fees, gathered their own research and presented arguments in quick hearings that resemble the average "Judge Judy" episode.

And now, thanks to the Internet, these victors are connecting with other consumers in hopes of helping them replicate their successes. If the practice catches on, it could amount to a big bucks difference in payouts by these giant corporations.

"It is a significant undertaking," says Heather Peters of Los Angeles, who sued Honda because her Civic Hybrid didn't meet its claims for gas mileage. She won \$9,867 last month.

"But with the Internet, it's a whole different world," said Peters, a former lawyer who just reactivated her license. "It just takes one or two people like us who are the anal-retentive, compulsive people to do all the work, and are magnanimous enough to say: 'Here you are! Go get `em. You do it, too!'"

Other success stories include Matt Spaccarelli of Simi Valley, Calif., and Henry Brown of New York, who both sued AT&T Inc.

Brown won \$1,587.50 in October after suing the telecommunications giant for frequently dropping his wireless calls and charging him an early termination fee when he wanted to get out of his contract.

Spaccarelli was awarded \$850 last week after successfully suing AT&T for slowing down the data service on his iPhone when he hit a limit for

downloads, even though he had an "unlimited data" plan.

Peters and Spaccarelli have both put up websites that feature copies of the documents they used in court.

Peters says hundreds of people have expressed interest, and she knows of at least six consumers who have filed cases. Dozens of people have contacted Spaccarelli, and he recently filed suit on behalf of his brother, who has the same problem with his iPhone.

Their victories aren't necessarily final. Honda says it will appeal Peters' award, and AT&T is appealing Spaccarelli's. But the new hearings will basically be reruns of the first ones. They will feature similar and relatively informal rules. So there's no way the companies can use their resources to take a small claims case to a jury trial and force the consumer to rack up enormous legal fees.

The small claims process is by no means easy. For Brown and Spaccarelli, the hearings were harrowing. They felt intimidated by AT&T's representatives. AT&T's lawyer postponed Brown's hearing three times before agreeing to a hearing date, months after the suit was filed.

"He was just so vicious, and it actually scared me. I actually said to the judge, 'I don't feel safe sitting next to him. He's just on the full attack,'" Brown says. The judge was sympathetic but told Brown that lawyers don't have to act nice: "This isn't a tea party," he was told.

Peters started her case because she was dissatisfied with a class-action settlement in the works over the same issue - the Honda Civic Hybrid's gas mileage. That settlement would give Civic owners \$100 to \$200 each, plus a rebate on a new Honda. Peters made out much better.

Should companies be scared of consumers heading to small claims courts? A quick calculation shows they should have cause for concern.

Honda's proposed class action settlement might cost the carmaker \$40 million, if every one of the 200,000 Civic Hybrid owners claimed the maximum amount. But if all of the owners went to small claims court and fared as well as Peters, the company would be out nearly \$2 billion.

"If corporations see a large number of people going to small claims, it might cut off their ability to have these relatively cheap dispositions of class actions," says Richard Cupp, a law professor at Pepperdine University in Malibu, Calif.

But while corporations have been fighting class actions, they don't seem very concerned about self-help justice through small claims. Paying off a few brave souls who head to small claims or arbitration is, after all, cheaper than settling class action suits.

"How many people would really do this?" Spaccarelli asks. "I'm just kind of pig-headed."

Companies are actually encouraging consumers to take their gripes to small claims courts. A clause in AT&T's contract, for instance, forbids customers from pursuing a jury trial or a class action. It points them instead to small claims court or arbitration. AT&T scored a victory on behalf of many companies when the Supreme Court upheld the clause last year.

"We strongly believe that small claims and arbitrations are viable options for concerned customers," AT&T spokesman Mark Siegel says. "With over 100 million customers, we expect to receive complaints from time to time, and we know that, in a few of those cases, a small claims judge or an arbitrator might make a decision that we think is wrong. That's

OK."

There is scant data on the number of small claims cases filed in the U.S. each year or on the number of cases that feature consumers suing big companies. A study by the National Center for State Courts, published in 1992, found 40 percent of cases in the 12 courts studied were consumer complaints. The same study found that 67 percent of individuals suing businesses or government agencies won their cases.

The Internet makes it easier for [consumers](#) to band together and take their cases to small claims court, but that doesn't apply to arbitration cases, because they usually require parties to keep the outcome confidential. If companies direct more cases to arbitration, sharing of tips and documents among consumer plaintiffs would be stifled.

Consumer advocates have been critical of arbitration for another reason: The arbiters are effectively paid by the companies who funnel claims there. Mandatory arbitration clauses by credit card companies have been hotly contested by regulators, consumer groups and in court.

The Davids who take down Goliaths in small claims courts say it isn't about the money but the justice - the satisfaction of getting even.

"What was worth the time was sticking it to AT&T. That was the end-all," Brown says. "Especially when, at the end, the lawyer came up to me and said, 'Congratulations, you made a great case.' I looked at him in disgust and walked away."

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