

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

\_\_\_\_\_  
No. 11-11124  
\_\_\_\_\_

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT  
DECEMBER 27, 2011

D. C. Docket No. 1:10-cv-23023-JLK JOHN LEY  
CLERK

DAVID KARDONICK,  
individually and on behalf of  
all other similarly situated and the general public,

Plaintiff-Appellee,

versus

CITIGROUP, INC.,  
CITICORP USA, INC.,  
CITIBANK SOUTH DAKOTA, N.A.,

Defendants-Appellants.

\_\_\_\_\_  
Appeal from the United States District Court  
for the Southern District of Florida  
\_\_\_\_\_

(December 27, 2011)

Before DUBINA, Chief Judge, MARCUS and BLACK, Circuit Judges.

PER CURIAM:

Citigroup, Inc., Citicorp USA, Inc., and Citibank (South Dakota), N.A. (“Citibank”) appeal the district court’s order denying their motion to compel arbitration in this matter, a purported class action brought by David Kardonick. The district court determined that the arbitration agreement was procedurally unconscionable.

At the time the district court made its ruling in this case, it was without the benefit of the Supreme Court’s decision in *AT&T Mobility v. Concepcion*, 131 S. Ct. 1740 (2011) and our decision in *Cruz v. Cingular Wireless, LLC*, 648 F.3d 1205, 1207 (11th Cir. 2011), where we held that in light of *Concepcion*, the class action waiver and the plaintiffs’ arbitration agreement is enforceable under the Federal Arbitration Act.

Because we believe it prudent for the district court to reconsider its order in the first instance, especially in light of *Concepcion* and *Cruz*, we vacate the district court’s order denying Citibank’s motion to compel arbitration and remand this case for the district court to reconsider its order in light of *Concepcion* and *Cruz*.<sup>1</sup>

**VACATED and REMANDED.**

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<sup>1</sup>This is an unlimited remand.