

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA
PHILADELPHIA**

MARC BRAGG, Esq., an individual, CIVIL DIVISION

Plaintiff, No. 06-cv-4925

v.

JUDGE EDUARDO ROBRENO

LINDEN RESEARCH, INC., a corporation,
and PHILIP ROSEDALE, an individual,

Defendants.

**SUPPLEMENTAL BRIEF IN OPPOSITION
TO THE MOTION TO COMPEL ARBITRATION**

Plaintiff, Marc Bragg, submits this Supplemental Brief to respectfully request that the Court consider a very recent appellate decision that will impact the Court's determination of this matter:

1. On May 14, 2007, the 9th Circuit published its most recent opinion with regard to unconscionability and arbitration clauses. *Davis v. O'Melveny & Myers*, 2007 WL 1394530 (9th Cir. 2007).

2. The *Davis* court has stated that "a court cannot rewrite the arbitration agreement for the parties." *Davis*, 2007 WL 1394530 at *15. Defendants have asked the Court to rewrite the arbitration agreement in this case to render it "conscionable".

3. Plaintiff requests that this Court take judicial notice of the opinion and, hereby, incorporates reference to the *Davis* case (which was not available when he filed his briefs with this court) as though more fully set forth at length in his prior briefs filed with the court.

Respectfully submitted,

Date: May 17, 2007

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CERTIFICATE OF SERVICE

I, Christopher E. Ballod, hereby state that on this date I have caused a true and correct copy of the foregoing Supplement Brief In Opposition to the Motion to Compel Arbitration to be served via First Class mail, postage prepaid, upon:

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