

MARKS & WEINBERG, P.C.

General Electric Capital Corp. v. London Communications, Inc.

1997 WL 403258 (Tex. App., 1997).

London Communications sued Rentelco, a subsidiary of General Electric Capital, for usury. London Communications proposed a class action with a plaintiff class consisting of companies which "leased" telecommunications equipment from Rentelco via a "lease/purchase agreement". The plaintiffs claimed these agreements were really disguised loans. In Texas (as elsewhere), usury laws do not apply to leases, so the ultimate question the court would have to decide was whether the "lease" really was a lease.

This particular case, however, actually concerned whether the plaintiff class satisfied the "commonality" requirement for a class action in Texas. For a class to be maintained there must be, among other things, "common questions of law or fact." The court focused on the purchase option price in the lease/purchase agreements: If the purchase option prices were nominal, the "leases" were actually loans, and they would then be subject to the usury laws. The court decided that the nature of the option prices had to be decided individually; as a result, a class action could not be maintained.

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