

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR
COLLIER COUNTY, FLORIDA CIVIL ACTION

COMCAST CABLEVISION OF WEST
FLORIDA, INC., a Delaware corporation,

Plaintiff/Counter-Defendant,

v.

Case No.: 01-3598-CA

COZUMEL CONDOMINIUM
ASSOCIATION, INC., a Florida not-for-
profit corporation

Defendant/Counter-Plaintiff.

REC'D DEC 12 2002

ORDER DISMISSING PLAINTIFF'S COMPLAINT

THIS CAUSE having come before the Court on Defendant, Cozumel Condominium Association, Inc.'s, Motion to Dismiss Plaintiff's, Comcast Cablevision of West Florida, Inc., First Amended Complaint, and the Court having heard the argument of counsel, having reviewed the file, and otherwise being duly advised in the premises, hereby

FINDS that the exclusivity provision in the contract attached to the First Amended Complaint violates § 718.1232, Fla. Stat., and therefore, the Court

ORDERS AND ADJUDGES that

1. Defendant's Motion to Dismiss Plaintiff's First Amended Complaint is granted, and Plaintiff's First Amended Complaint is hereby dismissed without prejudice, and
2. Plaintiff shall file an Amended Complaint within twenty (20) days of the date of this Order;

DONE AND ORDERED in chambers, Collier County, Florida, this _____ day of December, 2002.

The original of this document was signed

DEC 6 2002

THE HONORABLE TED H. BROUSSEAU by Ted Brousseau
CIRCUIT COURT JUDGE Circuit Judge

Conformed copies to:
Edmond E. Koester, Esq.
Philip J. Kantor, Esq.

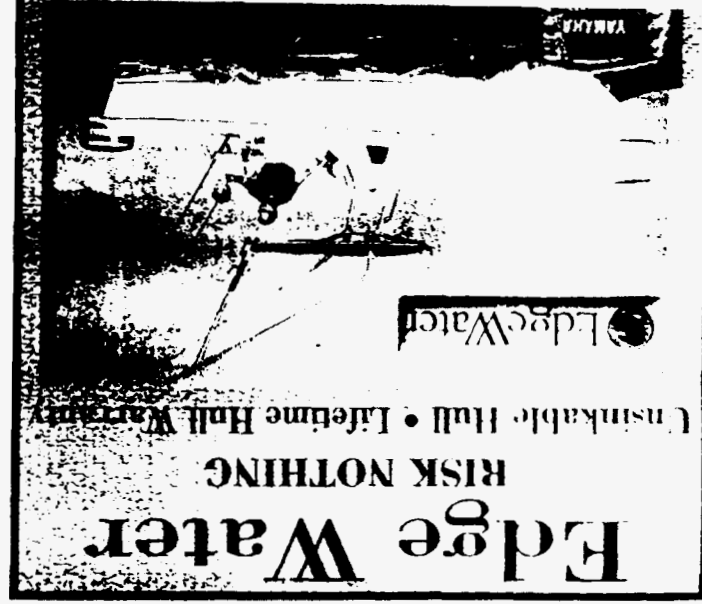
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Judge's order may override Point Marco cable contract

By I.M. Stadel
Staff Writer

On first blush, it looks like a for buying Marco Island Cable that violates Florida condominium-unity claims Nov. 4 by Comcast Cablevision against Cozumel Condominium Association win for condominium residents who are often saddled with service contracts negotiated for them.

Collier County Circuit Judge Ted Brousseau dismissed preliminary claims Nov. 4 by Comcast Cablevision against Cozumel Condominium Association win for condominium residents who are often saddled with service contracts negotiated for them. According to Cozumel attorney Ed Koester, Brousseau said Comcast cannot force Co-



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zumel condo owners to exclusively buy its services because that violates Florida condominium law. Brousseau's written order was not immediately available and Comcast's attorney Philip Kantor, of Miami, said he doesn't know if the case is closed. Brousseau said we can re-pled the case," Kantor said. "We're waiting for the order to come out." Marco Island Cable owner Bill Gaston was pleased with Brousseau's decision. "It throws into question all exclusive contracts," said Gaston, who said he has 7,000 Marco Comcast has 9,000 subscribers island-wide. Kantor said the Cozumel con-

In an amended complaint filed July 8, Comcast protested that it had an exclusive contract with Cozumel. The contract Antarian unit owners from choosing for themselves which cable provider they want. In his Oct. 28 answer to Kantor, Koester cited a 1984 District Court of Appeals decision in which a similar Florida statute was interpreted to prevent Koester argued that the contract Antarian signed with Continental violates Florida statutes by attempting to re- strain trade, and preventing unit owners from choosing for themselves which cable provider they want. In his Oct. 28 answer to Kantor, Koester cited a 1984 District Court of Appeals decision in which a similar Florida statute was interpreted to prevent

tract is for roughly 120 condos. While Comcast originally filed the suit last year, the dispute stems from actions taken six years ago. Cozumel's developer Jack Antarian signed a 15-year contract with Comcast's predecessor Continental Cablevision on July 24, 1996. In an amended complaint filed July 8, Comcast protested that it had an exclusive contract with Cozumel. The contract Antarian signed with Continental is binding on the successors, assignees, mortgagees, heirs, executors, owners or premises. That means Cozumel and the rest of the Point Marco development, Kantor stated in his July motion. "Without any notice of any



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Continued from A18

"profiteering by apartment owners by preventing them from treating their tenants as a captive market for the sale of inferior television reception services at excessive costs."

However, Koester noted that Florida law — and Brousseau's interpretation of the law — does not protect individual condo owners from a more common complaint: bulk contracts entered into by their condo associations.

Law says a condo owner can opt out of the bulk contract and buy another service, but most condo associations include the cable costs in the monthly assessment fees, Koester said.

Getting one's condo association fees reduced for the extra service is an issue between the association and individual unit holder, Koester said.

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