

Saiber Helps Hulu Successfully Dismiss Class Action Complaint by New Jersey Municipalities in District of New Jersey

June 14, 2022

With lead co-counsel Wilson Sonsini Goodrich & Rosati, Saiber attorneys Arnold B. Calmann, Jakob B. Halpern and Catherine Soliman recently obtained dismissal of a class action complaint asserted against Hulu, LLC in the United States District Court for the District of New Jersey by plaintiffs and putative class representatives Borough of Longport and Township of Irvington.

Plaintiffs had alleged that Hulu and co-defendant Netflix, Inc. violated the New Jersey Cable Television Act (“CTA”) by failing to obtain a franchise and paying the associated franchise fees to Plaintiffs and other municipalities across the state. Hulu argued, among other things, that the CTA does not grant Plaintiffs a private right of enforcement, requiring dismissal of their claims. The court, in an opinion by U.S. District Judge Stanley R. Chesler, agreed.

Judge Chesler determined that the CTA does not explicitly confer a private right of action to State municipalities, and thus considered whether such a right is implicit within the statutory scheme. The Court observed that the statutory framework governing the CTA demonstrated the Legislature’s clear intent to designate the Board of Public Utilities (“BPU”), the State’s local franchising authority, as the sole authority empowered to enforce the CTA. The Court also found that finding a private right of action for municipalities would interfere with the enforcement scheme established by the Legislature and usurp the BPU’s authority. Therefore, the Court held that there was no implicit right of private enforcement under the CTA.

Because Plaintiffs did not have a private right of action under the CTA, the Court dismissed their Complaint. The Court further determined any amendment to the Complaint would be futile and denied leave to amend.

A copy of the Court’s opinion may be found at the below link: