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BUSINESS

Lawsuit Over Cellphones and Cancer Hits a Stumbling Block

Appeals court says a different legal standard for evidence should have been used



The District of Columbia Court of Appeals PHOTO: AGNOSTICPREACHERSKID

By **RYAN KNUTSON**

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An appeals court in Washington, D.C., on Thursday dealt a setback to a long-running lawsuit against the wireless industry over health concerns surrounding cellphones, deciding that a different legal standard for evidence should have been applied.

The decision by the District of Columbia Court of Appeals will further prolong the litigation, initially filed in 2001, as plaintiffs must now produce arguments on why previously submitted evidence should continue to be included under the new standard. Jeffrey Morganroth, a lawyer for the plaintiffs, said they wouldn't back down, and that the ruling may even help get new testimony included.

The lawsuit, *Murray v. Motorola*, has been combined with more than a dozen other cases involving brain tumors and cellphones. Defendants include Apple Inc., AT&T Inc., Samsung Electronics Co. and Verizon Communications Inc. Plaintiffs seek more than \$1.9 billion in damages. At least eight plaintiffs have died since the first case was filed.

In 2014, the Superior Court of the District of Columbia ruled that testimony from five scientists could be admitted to the trial. Defendants appealed, saying the court should use a different legal standard to determine whether the testimony should be admitted. On Thursday, a spokeswoman for the wireless industry trade group CTIA said the group was pleased by the result.

Rather than rely on a standard known as *Frye* when admitting scientific evidence, the court will now begin using a standard known as Rule 702. The Rule 702 standard gives judges more discretion over what evidence can be admitted. In recent years, other courts have also switched to the 702 standard.

The U.S. government has said there's no conclusive evidence that cellphones cause cancer. But a recent study on rats by the federally funded National Toxicology Program found a link between the energy emitted from cellphones and cancer.

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