

Third Circuit Reaffirms Ruling on "Wardrobe

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Today, the federal Third Circuit Court of Appeals issued an opinion in the Janet Jackson indecency case reaffirming its earlier decision that CBS owned and operated stations were not liable under the "indecency" statute for the broadcast of Janet Jackson's "wardrobe malfunction."

The Third Circuit heard oral argument in the case more than a year ago, after the U.S. Supreme Court vacated the Third Circuit's original decision and sent the case back to the Third Circuit for further consideration in light of the Supreme Court's ruling in *FCC v. Fox Television Stations, Inc.*, a case involving fleeting expletives.

By a two to one majority, the Third Circuit held today, as it had before, that the FCC's sanction against CBS for the fleeting nude image was a departure from its policies on actionable indecency. In a win for broadcasters, the Court vacated in its entirety the Commission's \$550,000 penalty against the CBS owned stations.