

Blog Entry: Coming Up This Term from SCOTUS

OCTOBER 18, 2016

Source: Array

One class action-related case, so far: *Microsoft v. Baker*, case no. 15-457, on certiorari from the Ninth Circuit. The issue: “Whether a federal court of appeals has jurisdiction under both Article III and 28 U.S.C. § 1291 to review an order denying class certification after the named plaintiffs voluntarily dismiss their individual claims with prejudice.”

Quick background: Plaintiffs sued Microsoft claiming defective Xbox 360 video game consoles. They sought class certification, but the district court struck their class action allegations. After their request for interlocutory appellate review under Fed. R. Civ. P. 23(f) was denied, they stipulated to the voluntary dismissal of their action with prejudice and appealed as of right to the Ninth Circuit for review of the strike order. The Ninth Circuit assumed jurisdiction and reversed, claiming the district court failed to comply with Ninth Circuit precedent “rejecting the notion that individual manifestations of a defect precluded resolution of the claims on a class-wide basis.” Microsoft’s cert petition was granted on the limited issue expressed above.

From a class action perspective, SCOTUS’ decision will impact the Ninth Circuit more than most others, including the Sixth, because those other circuits would generally not have allowed an appeal as of right from a stipulated voluntarily dismissal with prejudice. *See, e.g., Laczay v. Ross Adhesives*, 855 F. 2d 351 (6th Cir. 1988). But from a standing and appellate jurisdiction-law perspective, its impact could be broad, depending on its scope. We’ll be following. The case is *Microsoft Corporation v. Baker*, United States Supreme Court, case no. 15-457.