

Blog Entry: Ninth Circuit Puts the Brakes on Chrysler Class Action

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On October 24, 2016, the Ninth Circuit Court of Appeals reversed a district court's certification of a class against Chrysler Group ("Chrysler") under the California Consumers Legal Remedies Act. Because the plaintiff could not establish that damages could be measured on a classwide basis, and because the plaintiff failed to satisfy the typicality and adequacy requirements of Rule 23, the Ninth Circuit reversed certification and remanded for further proceedings.

In *Doyle*, Steve Doyle sued Chrysler for its alleged failure to disclose a defect in its window regulator replacements. Doyle sought to represent a class of persons that, in part, both purchased Chrysler's replacement regulator, or otherwise had a replacement regulator "installed." Upon the district court's certification of the class, Chrysler immediately sought an interlocutory appeal pursuant to Federal Rule of Civil Procedure 23(f), arguing that Doyle's "partial reimbursement" damages model could not establish damages on a classwide basis pursuant to the Supreme Court's decision in *Comcast Corp. v. Behrend*. Chrysler also argued that the district court erred in holding that Doyle satisfied the typicality and adequacy requirements of Rule 23 because Doyle himself only purchased a regulator, while his proposed class included persons who never purchased a regulator, but instead had one installed.

The Ninth Circuit agreed. The Ninth Circuit first explained that, pursuant to *Comcast Corp.*, to satisfy Rule 23(b)(3)'s predominance requirement damages must be "capable of measurement on a classwide basis." This requirement, the Ninth Circuit stated, extends to the specific methodology proposed by a plaintiff in seeking class certification. Doyle's proposed methodology for damages at the district court level involved a partial reimbursement model. The Ninth Circuit held that Doyle's approach "fails to satisfy *Comcast* because Doyle has not offered a model for determining what percentage of the purchase price the reimbursement should be." Because a proposed damages model must "measure only the damages that are attributable to the theory of liability," Doyle was unable to show that damages could be measured on a classwide basis.

Additionally, the Ninth Circuit held that Doyle failed to satisfy Rule 23's typicality requirement. Doyle's class included both individuals who purchased a replacement regulator and those that had one installed. Because some class members "paid for their replacement regulators while others did not," Doyle's claim was not typical of the entire class.

Finally, Doyle failed to adequately represent the interests of members who did not purchase replacement regulators. Doyle's reimbursement-based model could not account for class members who had a replacement regulator installed for the seemingly obvious reason that those individuals "did not pay for their regulators and therefore have no expenses that could be reimbursed."

The case is *Doyle v. Chrysler Group, LLC*, No. 15-55107, 2016 WL 6156062 (9th Cir. Oct. 24, 2016).