ANNOUNCEMENTS

Benesch Head of Litigation Prevails in Landmark Ohio Class Action Decision

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In a holding that will make multimillion-dollar settlements harder to extract from Ohio businesses at the class-certification stage, the Ohio Supreme Court ruled in *Felix v. Ganley Chevrolet* that class plaintiffs under the consumer-protection laws must found their cases on actual harm to all class members or the class cannot be certified. Joseph A. Castrodale, the Vice Chair of Benesch and its Head of Litigation, handled the appeal and argued it in the Ohio Supreme Court.

In *Felix*, the Ohio Supreme Court reversed a class-certification order that indicated an intent to impose per-capita "artificial" damages against a car dealership based upon an alleged violation of the consumer protection laws, even though most of the putative class members had not been harmed in any way.

The Ohio Supreme Court on August 27 decertified a class of consumers in a state suit alleging that the auto dealer's purchase agreements contained an unconscionable arbitration clause, ruling plaintiffs hadn't shown that all the class members had been injured.

In a 6-1 decision, the Ohio Supreme Court vacated a trial court's order certifying the class and remanded the case for proceedings consistent with the determination that actual damages must be shown in class action litigation based on the Ohio Consumer Sales Practices Act as to each and every member of the proposed class.

"Although trial judges enjoy broad discretion in determining whether a class can be certified, that discretion is not unlimited, particularly when, as here, the trial judge completely misconstrues the letter and spirit of the law," the opinion said. Although *Felix* involved a claim under the Ohio Consumer Sales Practices Act, the reasoning of the opinion covers all class actions and likely is the death knell of "no harm" class actions in Ohio.

The case is *Felix et al. v. Ganley Chevrolet Inc. et al.,* case number 2015-3430, in the Supreme Court of Ohio.