

ALERTS

Commercial Litigation Law Alert - Supreme Court Will Decide Whether Defendant Companies Can “Pick Off” Class Representatives With Full Settlement Offers

May 20, 2015 | [Atlanta](#) | [Chicago](#) | [Columbus](#) | [Delaware](#) | [Elkhart](#) | [Fort Wayne](#) | [Grand Rapids](#) | [Indianapolis](#) | [Los Angeles](#) | [Minneapolis](#) | [South Bend](#)

On May 18, the U.S. Supreme Court announced it will hear a case to decide whether a defendant’s unaccepted settlement offer to the named plaintiffs for complete relief moots the claims of a putative class. The court’s ruling will have a dramatic impact on class action litigation. It may become easier for defendant companies to halt class action lawsuits by settling the individual claims of the named plaintiffs.

In *Gomez v. Campbell-Ewald Company*, Gomez sought to represent a putative class of recipients of automated and unsolicited text messages, asserting a claim under the Telephone Consumer Protection Act (TCPA), 47 U.S.C. 227(b)(1)(A)(iii). After a California district court denied Defendant’s motion to dismiss, the defendant offered Gomez a full-compensation settlement, which Gomez rejected. Defendant moved to dismiss Gomez’s claims for a second time, arguing that Gomez’s rejection of its full-compensation offer mooted his and the putative class claims. The court denied the motion.

On appeal, the Ninth Circuit also rejected the defendant’s mootness argument. The court held that an unaccepted full-compensation settlement offer to the named plaintiff did not moot the putative class claims. In doing so, the Ninth Circuit upheld its own precedent.

The specific issue before the Supreme Court is whether putative class claims become moot when the named plaintiff refuses a full-compensation settlement offer. On this issue, the Third, Fifth, Ninth, Tenth, and Eleventh Circuits are consistent with the Ninth Circuit. The Fourth, Seventh, and Eighth Circuit Court of Appeals, however, follow the traditional mootness rule (that an offer to fully compensate the named plaintiff before a class is certified moots the class action).

This case is critical for businesses. If the Supreme Court reverses the Ninth Circuit, defendants will have an effective tool to potentially avoid class actions.

For more information, contact the Barnes & Thornburg attorney with whom you normally work, or one of the following attorneys: Adey Adenrele at adey.adenrele@btlaw.com or 317-231-7365, or Joseph Wendt at joseph.wendt@btlaw.com or 317-231-7748.

© 2015 Barnes & Thornburg LLP. All Rights Reserved. This page, and all information on it, is proprietary and the property of Barnes & Thornburg LLP. It may not be reproduced, in any form, without the express written consent of Barnes & Thornburg LLP.

This Barnes & Thornburg LLP publication should not be construed as

RELATED PEOPLE



T. Joseph Wendt

Partner
Indianapolis

P 317-231-7748
F 317-231-7433
joe.wendt@btlaw.com

RELATED PRACTICE AREAS

Commercial Litigation

legal advice or legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only, and you are urged to consult your own lawyer on any specific legal questions you may have concerning your situation.

Visit us online at www.btlaw.com and follow us on Twitter [@BTLawNews](https://twitter.com/BTLawNews).