Press Release

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In WLF Victory, Supreme Court Denies Plaintiffs Extra Appeals of Class Certification Denials

(Microsoft Corp. v. Baker)

"Today's unanimous reversal is a victory for common sense. Any other holding would not only deprive appeals courts of their discretion, but would unfairly favor plaintiffs over defendants."
—Cory Andrews, WLF Senior Litigation Counsel

WASHINGTON, DC—The U.S. Supreme Court today unanimously overturned a decision of the U.S. Court of Appeals for the Ninth Circuit that granted plaintiffs immediate appeal rights to which federal law does not entitle them. The decision marked a victory for WLF, which filed an *amicus* brief in *Microsoft Corp. v. Baker*, contending that permitting plaintiffs (and *only* plaintiffs) automatic immediate appeals from denials of class certification would encourage multiple, piecemeal appeals from a single lawsuit and undermine the evenhanded administration of justice.

The case involved a district court's interlocutory order striking the plaintiffs' class allegations from the complaint—an order for which a Ninth Circuit panel had already refused interlocutory appeal. Rather than take their individual claims to trial and then contest the denial of class certification in a post-trial appeal, plaintiffs voluntarily dismissed all of their claims with prejudice, then immediately appealed the class-certification denial as part of their appeal from the "final order" dismissing their claims.

The high court majority agreed with WLF that the statute governing appeals, 28 U.S.C. § 1291, strictly limits appeals to final decisions, and that a pre-trial order denying class certification does not become "final" because plaintiffs strategically elect to dismiss their case with prejudice. It further decided that the Ninth Circuit's holding subverts Rule 23(f), which permits an appeals court *at its sole discretion* to allow interlocutory appeal (by either plaintiffs *or* defendants) from a class-certification order.

Justices Thomas, Alito and The Chief Justice concurred in the judgment but would have held that the plaintiffs' stipulated dismissal with prejudice rendered the case moot when it destroyed the adversity necessary for a live "case" or "controversy" under Article III of the U.S. Constitution—a point WLF also advanced. Justice Gorsuch did not participate in the case.

WLF's *amicus* brief was joined by the National Association of Manufacturers, the International Association of Defense Counsel, and the NFIB Small Business Legal Center.

Celebrating its 40th year, WLF is America's premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.

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