

Litigation Alert

January 21, 2016

Supreme Court Rules Settlement Offer Cannot Moot Class Actions

On January 20, 2016, the United States Supreme Court held, in *Campbell Ewald Company v. Gomez*, that a plaintiff who receives a settlement offer of complete relief from a defendant still has a viable legal claim, because a rejected settlement bid has no force.

Therefore, defendants in class actions have no further incentive to make offers of full relief to the named plaintiffs before a class is certified. The named plaintiffs can reject their settlement offers and continue with the class action suits as if the offers had never occurred.

Facts

Jose Gomez received unsolicited text messages from the Campbell-Ewald Company, which recruited for the Navy. Gomez filed a class action lawsuit under the Telephone Consumer Protection Act (TCPA). Under the TCPA, it is illegal to send messages using an automated system without the recipient's consent. The penalty for each violation is \$500, which could be trebled if a violation is knowing and willful.

Before the class could be certified, Campbell-Ewald offered to settle Gomez's claim for \$1,503 and reasonable costs, which is more than he would be entitled to under the TCPA. Gomez refused to settle. Campbell-Ewald filed a motion to dismiss, arguing that the case was moot, because the plaintiff received an offer of complete relief on his claim.

Ruling

The Supreme Court held, in a 6-3 decision by Justice Ginsburg, that an unaccepted settlement offer for complete relief does not eliminate the case or controversy requirement under Article III. A case can be dismissed as moot only if the court can no longer grant any relief to the party. "Under basic principles of contract law, Campbell's settlement bid and Rule 68 offer of judgment, once rejected, had no continuing efficacy." 577 U. S. ____ (2016) at *8. Thus, in rejecting a settlement offer, the plaintiff loses any entitlement to the relief presented by the defendant, because the offer is effectively withdrawn as if it had never occurred. The court can subsequently step in and offer relief, so the case cannot be dismissed as moot.

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