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*Microsoft Corp. v. Baker*, No. 15-457

The Supreme Court has granted review in this case to decide whether the named plaintiffs' stipulated dismissal of

their individual claims with prejudice after the denial of class certification creates appellate jurisdiction to review the

class certification question. Plaintiffs filed a putative class action against Microsoft claiming defects in the Xbox 360

gaming console. After the district court granted Microsoft's motion to strike the class allegations, the plaintiffs

petitioned for an interlocutory appeal, which was denied. The parties subsequently stipulated to dismiss the case

with prejudice, and plaintiffs appealed to the Ninth Circuit. Microsoft contended that the appeal should be dismissed

because the voluntary dismissal with prejudice did not create appellate jurisdiction. The Ninth Circuit disagreed,

holding that a stipulated dismissal without a settlement “retains sufficient adversity to sustain an appeal.” The

Second Circuit has adopted the same view, but five other circuits have held that an appellate court lacks jurisdiction

to review a denial of class certification where the plaintiffs have voluntarily dismissed their claims with prejudice.

The Supreme Court will now resolve this disagreement.