
Frank v. Gaos, No. 17-961 (decided March 20, 2019)

Today, the Supreme Court issued a short opinion declining to decide the limits of *cy pres* settlements and returning the case to the lower courts to address standing in the first instance.

Background: Three named plaintiffs brought class-action claims against Google for alleged violations of the Stored Communications Act and various state-law claims. The parties negotiated a class-wide settlement that would require Google to include disclosures on some of its webpages and distribute more than \$5 million in payments to *cy pres* recipients who submitted detailed proposals for how the funds would be used to address Internet issues related to the allegations in the plaintiffs' complaints. The lower courts approved the settlement.

Issue: Petitioners, who are objectors to the settlement, sought review to address the question whether, or in what circumstances, a *cy pres* award comports with the requirement in Federal Rule of Civil Procedure 23 that a class settlement must be "fair, reasonable, and adequate."

Court's Holding: The Court did not reach the merits of the question presented. Instead, it vacated the judgment below and remanded for the lower courts to consider in the first instance the "substantial questions about whether any of the named plaintiffs has standing to sue in light of our decision in" *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540 (2016). The Court explained that a "court is powerless to approve a proposed class settlement if it lacks jurisdiction over the dispute, and federal courts lack jurisdiction if no named plaintiff has standing."

Mayer Brown represents respondent Google.