



Supreme Court to Decide Whether Individual Offer of Settlement Moots Class Action Claims

Yesterday, the United States Supreme Court agreed to consider whether an offer of complete relief to an individual class representative before class certification moots the claim and is thus beyond the judicial power of Article III of the United States Constitution. In *Campbell-Ewald Co. v. Gomez*, the plaintiff filed a putative class action under the Telephone Consumer Protection Act and, before any class was certified, the defendant made a Rule 68 offer of judgment for slightly more than the maximum recovery allowed under the statute—\$1,500.00. Both the district court and the Ninth Circuit Court of Appeals rejected the defendant's contention that the settlement offer mooted the claims. State and federal courts have differed on the issue; some finding that complete offers of individual relief made before a motion for class certification is filed moot the claims while others have characterized such offers of settlement as improper attempts to “pick off” class representatives in order to evade class action litigation. The Supreme Court is expected to resolve the long-standing conflict in the lower courts on this issue later this year.

If you have any questions about this Client Bulletin, please feel free to contact William A. Chittenden III or the CMN attorney with whom you regularly work.

Chittenden, Murday & Novotny LLC
303 W. Madison St. Suite 1400
Chicago, Illinois 60606
312.281.3600
www.cmn-law.com