

SUPREME COURT OF OHIO CLARIFIES THAT CLASS ACTION SETTLEMENTS ARE RES JUDICATA AS TO CLASS MEMBERS WHO DO NOT FORMALLY "OPT OUT"

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When defendants settle class actions, one of the chief things they are "buying" is peace of mind – the predictability of knowing that litigation is behind them. That is one reason why courts routinely hold that a valid class action settlement is res judicata as to class members. True, class members may "opt out" of a class settlement to preserve their right to sue individually, but the formal opt-out process puts defendants on notice of which – if any – claims remain "live," as opposed to having to guess which claims are barred by res judicata.

The Supreme Court of Ohio's recent decision in *McAdams v. Mercedes-Benz USA, LLC*, Slip Op. No. 2020-Ohio-3702, preserves the integrity of the class action settlement process by confirming that a trial court's determination of who is a class member is conclusive. *McAdams* arose out of a typical class action settlement process in federal court. The federal court issued a "notice of pendency and proposed settlement of the class action" between the plaintiffs and Mercedes-Benz USA, LLC, and conditionally certified a nationwide settlement class. The order provided for the parties to give notice to the proposed class members and that any "class member who wished to be excluded from the class action was required to submit a written request for exclusion." *McAdams*, 2020-Ohio-3702, ¶ 7. Class member Pattiann McAdams did not do so, although she had filed her own individual lawsuit against Mercedes-Benz in Ohio state court. When Mercedes-Benz sought summary judgment against her based on res judicata from the federal class action settlement, McAdams argued that her filing of an individual lawsuit sufficed to "opt out" of the settlement class.

Ohio's Tenth District Court of Appeals identified a split between "rigid" and "liberal" views of the class action opt-out requirement and concluded that it presented a question of first impression under Ohio law. Courts following the "rigid view," the appellate court explained, believe that relaxing the opt-out requirements would "erode finality of complex adjudications, discourage class action settlements, permit return of the former option of one-way intervention, and place a burden on judicial resources." *McAdams v. Mercedes-Benz USA, LLC*, 2018-Ohio-4078, 112 N.E.3d 935, ¶ 19 (10th Dist.); however, the Tenth District adopted the "liberal" view, concluding that McAdams's state-court lawsuit itself was a "reasonable expression of a request for exclusion." *Id.* at ¶ 20.

The Supreme Court of Ohio side-stepped the "rigid" versus "liberal" split by emphasizing that res judicata applies to any "final judgment rendered on the merits by a court of competent jurisdiction," and a determination of who is bound by a class action settlement cannot be revisited. *McAdams*, 2020-Ohio-3702, ¶¶ 21, 25. When the federal court entered its final order on the class action settlement, it defined the settlement class – and it excluded "only those class members who had opted out of the class action by following the mandated opt-out procedure." *Id.* at ¶ 25. McAdams was "not one of those people," and "because the issue of whether McAdams opted out of the class action is barred by res judicata, we need not address in this case the issue of whether this court should adopt a strict or liberal view when determining whether a class member adequately opted out of a class action." *Id.*

By reinforcing that res judicata attaches to a final order defining a settlement class, the Supreme Court of Ohio nevertheless achieved many of the goals for which proponents of the "rigid" view of opt-out requirements advocate: finality, predictability, and enforceability. *McAdams* thus counsels parties to pay close attention to the class notice and opt-out processes, but reassures that when they do, they may settle class actions confident that a strong res judicata rule protects against re-litigating released claims in Ohio.

ADDITIONAL INFORMATION

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