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U.S. Supreme Court Holds that Unaccepted Settlement Offer to Individual Plaintiff Does Not Moot Putative TCPA Class Action

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On January 20, 2016, the U.S. Supreme Court found that an unaccepted offer of settlement by a defendant did not render a plaintiff's individual or class claims moot, even if the defendant offered complete relief to the plaintiff. In *Campbell-Ewald Co. v. Gomez*, 2016 U.S. LEXIS 846, the U.S. Navy contracted with the Campbell-Ewald Company to develop a marketing campaign for the recruitment of young adults. Consumers who opted in to the program would receive text message advertisements on subjects including the Navy. The list of recipients included Jose Gomez, who had not consented to receive the text messages. Gomez filed a putative class action complaint against Campbell-Ewald in the U.S. District Court for the Central District of California, claiming that Campbell-Ewald violated the Telephone Consumer Protection Act by using an autodialer to send text messages without prior consent. Campbell-Ewald offered to settle Gomez's individual claim for the full amount of his possible recovery. Campbell-Ewald also filed an offer of judgment under Federal Rule of Civil Procedure 68. Gomez refused the settlement offer and allowed the Rule 68 offer to lapse.

Campbell-Ewald then moved to dismiss the case for lack of subject-matter jurisdiction. Campbell-Ewald argued that its settlement offer mooted Gomez's individual claim. In addition, Campbell-Ewald argued that its unaccepted settlement offer, submitted before Gomez moved for class certification, also mooted his class claims. The trial court denied Campbell-Ewald's motion to dismiss. The U.S. Court of Appeals for the Ninth Circuit affirmed the trial court's decision, and the U.S. Supreme Court affirmed the appellate court's decision.

The question on appeal was whether a "case" or "controversy" remained after Campbell-Ewald's settlement offer. According to the Court, Campbell-Ewald's settlement offer had no legal effect because Gomez rejected the offer. Federal Rule 68 did not change that result. Therefore, the Court held that a settlement offer from a defendant does not moot a case, even if the offer would provide complete relief to the plaintiff. The Court did not say how it would have ruled if, rather than simply offering to pay, Campbell-Ewald had deposited the full amount of Gomez's individual claim in an account payable to Gomez and a court had entered judgment for Gomez in that amount.

Justice Thomas wrote a concurring opinion, agreeing with the majority's conclusion but

for different reasons. Chief Justice Roberts and Justices Alito and Scalia dissented. The Chief Justice took the position that Gomez no longer had a stake in the litigation once Campbell-Ewald offered to provide full relief to him. At that point, the "case" or "controversy" ceased to exist. In a separate dissent, Justice Alito agreed with Roberts, but clarified that he would have voted with the majority if he had any doubt that Campbell-Ewald would have fulfilled its promise to pay Gomez.

Opinion

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