

M.C. Sungaila in Law360: Justices Level Class Action Playing Field In Xbox Ruling

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The U.S. Supreme Court's decision that a consumer alleging Microsoft Xbox 360 game consoles are defective can't appeal a class certification order by using a tactic only available to plaintiffs levels the playing field between plaintiffs and defendants for class actions, attorneys say.

The high court's ruling stemmed from a proposed class action filed in 2011 by lead plaintiff Seth Baker, who had claimed that the XBox 360 units scratched game discs. Following the denial of class certification the next year, Baker voluntarily dismissed his individual claims with prejudice and then appealed to the Ninth Circuit.

The Supreme Court's decision, penned by Justice Ruth Bader Ginsburg, struck down the Ninth Circuit's decision to revive the suit based on Baker's assertion that the dismissal of his claims counted as a final decision, taking the view that Baker's tactic would have resulted in drawn-out litigation and disadvantaged defendants in class actions, as only plaintiffs would be able to use this strategy to appeal a ruling on class certification.

"I think there was a real one-sidedness to this theory that really irked the court," said M.C. Sungaila, a partner at Haynes Boone and chair of the Amicus Curiae Committee of the International Association of Defense Counsel, which submitted an amicus brief. "Only the plaintiff would get this right to direct appeal and a defendant in a class action would not and I don't think this sat well with the court."

Excerpted from *Law360*. To read the full article, click [here](#).