

Hundreds of consumers filed a class action against an automotive company in a federal district court for allegedly violating a federal statute prohibiting price-fixing. Over the company's objection, the district court entered an order certifying the consumers as a class. Twelve days later, the company filed with the appellate court a petition for permission to appeal the district court's certification order.

Does the appellate court have jurisdiction to hear the appeal?

- A. No, because the appeal was not timely filed.
- B. No, because the order is not a final judgment.
- C. Yes, because certifying a class is a collateral order.
- D. Yes, because the order certified the consumers as a class.

Explanation:

Final-judgment rule

Rule Appeal only allowed after final judgment

- If multiple claims/parties, final judgment as to fewer than all claims/parties appropriate if court expressly determines no justifiable reason for delay

Exceptions Interlocutory appeals* concerning:

- Injunction (grant/denial)
- Certification by district court
- Class action certification
- Appointment of receiver
- Admiralty case
- Collateral-order doctrine
- Bankruptcy cases (certain orders)
- Mandamus (petition for writ)
- Patent infringement order (only accounting left)

Mnemonic: In Certain Circumstances, An Appeal Can Be Made Prematurely

*Appeal from trial court ruling that occurs before entry of final judgment.

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Appellate courts only have **jurisdiction** to hear appeals from a **final judgment** unless an exception applies. Federal Rule of Civil Procedure (FRCP) 23(f) provides such an exception for orders granting or denying **class action certification**. A petition to appeal this order must be filed with the appellate court clerk **within 14 days** after the order is entered.* Since the company filed its petition 12 days after the district court entered its order certifying the consumers as a class, the appellate court has jurisdiction to hear the appeal **(Choices A & B)**.

*The time to file a petition for appeal of the order granting or denying certification is extended to 45 days if one of the parties is the United States, a federal agency, or a federal officer or employee sued in an official capacity.

(Choice C) A **collateral order** conclusively resolves an important issue that is (1) separate from the merits of the claim and (2) effectively unreviewable on appeal from a final judgment. Certifying a class is not a collateral order because an appellate court can review and remedy an improper certification after a final judgment has been entered. Instead, FRCP 23(f) provides the basis for the exception.

Educational objective:

An appellate court has jurisdiction to hear an appeal from an order granting or denying class action certification if the petition for such an appeal is filed with the clerk of the appellate court within 14 days after the order is entered.

References

- Fed. R. Civ. P. 23(f) (appealing class action certification).

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