The parties to class action litigation frequently contest whether plaintiffs are entitled to pre-certification discovery aimed at identifying additional or replacement class representatives. The U.S. Court of Appeals for the Ninth Circuit recently left little doubt of the answer: no. *In re Williams-Sonoma, Inc.*, No. 19-70522, slip op. at 4-11 (9th Cir. Jan. 13, 2020). The clear, narrow decision benefits class action defendants resisting exploratory discovery efforts by opposing counsel.

Williams?Sonoma, Inc., the defendant in a putative consumer class action, challenged a district court order to produce a list of California customers who might replace the named plaintiff as a class representative. *Id.* at 5. Because the discovery order was not appealable, Williams?Sonoma petitioned the Ninth Circuit for a writ of mandamus—an extraordinary remedy reserved for clear errors of law that cannot be adequately addressed through other means.

The panel majority held that Williams?Sonoma had met the demanding mandamus standard. The district court clearly erred, the majority determined, because the U.S. Supreme Court has held that "seeking discovery of the name of a class member . . . is not relevant within the meaning of" Federal Rule of Civil Procedure 26(b)(1). *Id.* at 7 (citing *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 350–53 (1978)). The majority rejected a familiar refrain: that "the information sought in discovery was relevant to class certification issues, such as commonality, typicality, ascertainability, and reliance." *Id.* at 10. It was unpersuaded by post-*Oppenheimer* amendments to Rule 26(b)(1) and the distinction that *Oppenheimer*, unlike the district court's decision, addressed discovery *after* class certification. *Id.* at 9–10.

Two other aspects of *Williams?Sonoma* warrant observation. First, the manner in which the case arrived in court was atypical: the district court held provisionally that the named plaintiff could not represent a class of California customers. This action made it clear on appeal that "[t]he purpose of the discovery was to enable opposing counsel to find a lead plaintiff to pursue a class action against Williams?Sonoma under California law." *Id.* at 4–5. More often, the adequacy of the named plaintiff remains an open question until the class certification stage, making it easier before class certification to camouflage the goal of finding additional or replacement class representatives. Again, the *Williams?Sonoma* majority was unimpressed that the identity of California customers could be relevant to other, class certification-related issues. *Id.* at 10. Second, a dissenting judge expressed two views—(1) the majority overread *Oppenheimer* and (2) Federal Rule of Civil Procedure 23, governing class action procedures, also authorizes the district court's discovery order. *Id.* at 12–17.

In sum, the Ninth Circuit provided valuable clarity favoring class action defendants. Before class certification, the identity of potential class representatives is not relevant and not discoverable under Federal Rule of Civil Procedure 26(b)(1).

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