

No. _____

**In The
Supreme Court of the United States**

—◆—
TYLER AYRES, *et al.*,

Petitioners,

v.

INDIRECT PURCHASER PLAINTIFFS,
TOSHIBA CORPORATION, SAMSUNG SDI CO., LTD.,
KONINKLIJKE PHILIPS, N.V., THOMSON SA,
HITACHI LTD., PANASONIC CORPORATION, *et al.*,

Respondents.

—◆—
**On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Ninth Circuit**

—◆—
PETITION FOR A WRIT OF CERTIORARI
—◆—

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QUESTIONS PRESENTED

On remand from an appeal successfully challenging a proposed nationwide settlement, class counsel and his clients stopped representing the class members in the Petitioners' states. The Petitioners, still members of the certified national class, moved to intervene-of-right as representatives for the members in their states.

Although agreeing that those class members needed representation, the district court found it lacked subject matter jurisdiction to allow the intervention because the case was within a multi-district litigation (MDL) proceeding under 28 U.S.C. § 1407. The Petitioners appealed. To ensure their appeal was not rendered moot, they later appealed a final judgment approving a new settlement that excised the claims of the class members in their states against the Respondents.

In a single decision, the Ninth Circuit: (i) affirmed the final judgment on the basis that the Petitioners lacked standing to challenge it; and (ii) dismissed the intervention appeal as moot because the court was affirming the final judgment.

The decision has deepened a circuit split that the Fourth and Fifth Circuits have expressly acknowledged.

The questions presented are:

1. Does a final judgment moot a pending appeal from an order denying intervention-of-right?
2. Does a district court possess subject matter jurisdiction to allow class members to intervene-of-right directly into a case coordinated in an MDL proceeding?

RULE 14.1 STATEMENT

In addition to the petitioner listed in the caption, the following individuals were the appellants below and are petitioners here: Kerry Murphy, Jay Erickson, John Heenan, Jeff Johnson, Chris Seufert, William J. Trentham, Nikki Crawley, Hope Hitchcock, D. Bruce Johnson, Mike Bratcher, Eleanor Lewis, Robert Stephenson, and Warren Cutlip.

The Indirect Purchaser Plaintiffs referred to in the caption as respondents were plaintiff-appellees below, representing themselves and a certified class, and are: Brian Luscher, Jeffrey Figone, Carmen Gonzalez, Dana Ross, Steven Ganz, Lawyer's Choice Suites, Inc., David Rooks, Sandra Reebok, Travis Burau, Southern Office Supply, Inc., Kerry Lee Hall, Lisa Reynolds, Barry Kushner, Misti Walker, Steven Fink, David Norby, Ryan Rizzo, Charles Jenkins, Gregory Painter, Conrad Party, Janet Ackerman, Mary Ann Stephenson, Patricia Andrews, Gary Hanson, Frank Warner, Albert Sidney Crigler, Margaret Slagle, John Larch, Louise Wood, Donna Ellingson-Mack, and Brigid Terry.

RULE 14.1 STATEMENT—Continued

In addition to the respondent entities listed in the caption, the following entities were defendant-appellees below and are respondents here: Samsung SDI America, Inc., Samsung SDI Mexico S.A. de C.V., Samsung SDI Brasil Ltda., Shenzhen Samsung SDI Co., Ltd., Tianjin Samsung SDI Co., Ltd., Samsung SDI (Malaysia) San. Bhd., Philips North America LLC, Philips Taiwan Limited, Philips do Brasil, Ltda., Thomson Consumer Electronics, Inc., Technologies Displays Americas LLC, Hitachi Displays, Ltd. (n/k/a Japan Display, Inc.), Hitachi Asia, Ltd., Hitachi America, Ltd., Hitachi Electronic Devices (USA) Inc., Panasonic Corporation of North America, MT Picture Display Co., Ltd., Toshiba America, Inc., Toshiba America Information Systems, Inc., Toshiba America Consumer Products, LLC, Toshiba America Electronic Components, Inc.

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