SUPREME COURT OF THE UNITED STATES

No. 01–417

ROBERT J. DEVLIN, PETITIONER *v.* ROBERT A. SCARDELLETTI ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

[June 10, 2002]

JUSTICE O'CONNOR delivered the opinion of the Court.

Petitioner, a nonnamed member of a class certified under Federal Rule of Civil Procedure 23(b)(1), sought to appeal the approval of a settlement over objections he stated at the fairness hearing. The Court of Appeals for the Fourth Circuit held that he lacked the power to bring such an appeal because he was not a named class representative and because he had not successfully moved to intervene in the litigation. We now reverse.

I

Petitioner Robert Devlin, a retired worker represented by the Transportation Communications International Union (Union), participates in a defined benefits pension plan (Plan) administered by the Union. In 1991, on the recommendation of the Plan's trustees, the Plan was amended to add a cost of living adjustment (COLA) for retired and active employees. As it turned out, however, the Plan was not able to support such a large benefits increase. To address this problem, the Plan's new trustees sought to freeze the COLA. Because they were concerned about incurring Employee Retirement Income Security Act

of 1974 (ERISA) liability by eliminating the COLA for retired workers, see 29 U. S. C. §1054(g)(1) (1994 ed.) (providing that accrued benefits "may not be decreased by an amendment of the plan"), the trustees froze the COLA only as to active employees. Because the Plan still lacked sufficient funds, the new trustees obtained an equitable decree from the United States District Court for the District of Maryland in 1995 declaring that the former trustees had breached their fiduciary duties and that ending the COLA for retired workers would not violate ERISA. *Scardelletti* v. *Bobo*, 897 F. Supp. 913 (Md. 1995); *Scardelletti* v. *Bobo*, No. JFM–95–52 (D. Md., Sept. 8, 1997). Accordingly, in a 1997 amendment, the new trustees eliminated the COLA for all Plan members.

In October 1997, those trustees filed the present class action in the United States District Court for the District of Maryland, seeking a declaratory judgment that the 1997 amendment was binding on all Plan members or, alternatively, that the 1991 COLA amendment was void. Originally, petitioner was proposed as a class representative for a subclass of retired workers because of his previous involvement in the issue. He refused to become a named representative, however, preferring to bring a separate action in the United States District Court for the Southern District of New York, arguing, among other things, that the 1997 Plan amendment violated the Age Discrimination in Employment Act of 1967, 81 Stat. 602, as amended, 29 U. S. C. §621 *et seq.* (1994 ed. and Supp. V). The New York District Court dismissed petitioner's claim involving the 1997 amendment, which was later affirmed by the Second Circuit because:

> "The exact COLA issue that the appellants are pursuing . . . is being addressed by the district court in Maryland. . . . It seems eminently sensible that the Maryland district court should resolve fully the COLA

> amendment issue." *Devlin* v. *Transportation Communications Int'l Union*, 175 F. 3d 121, 132 (CA2 1999).

At the time petitioner's claim was dismissed, the District Court in Maryland had already conditionally certified a class under Federal Rule of Civil Procedure 23(b)(1), dividing it into two subclasses: a subclass of active employees and a subclass of retirees. On April 20, 1999, petitioner's attorney sent a letter to the District Court informally seeking to intervene in the class action. On May 12, 1999, petitioner sent another letter repeating this request. He did not, however, formally move to intervene at that time.

Also in May, the Plan's trustees and the class representatives agreed on a settlement whereby the COLA benefits would be eliminated in exchange for the addition of other benefits. On August 27, 1999, the trustees filed a motion for preliminary approval of the settlement. On September 10, 1999, petitioner formally moved to intervene pursuant to Federal Rule of Civil Procedure 24. On November 12, 1999, the District Court denied petitioner's intervention motion as "absolutely untimely." *Scardelletti* v. *Debarr,* 265 F. 3d 195, 201 (CA4 2001). It then heard objections to the settlement, including those advanced by petitioner, and, concluding that the settlement was fair, approved it. App. C to Pet. for Cert. 1–3.

Shortly thereafter, petitioner noted his appeal, challenging the District Court's dismissal of his intervention motion as well as its decision to approve the settlement. The Court of Appeals for the Fourth Circuit affirmed the District Court's denial of intervention under an abuse of discretion standard. 265 F. 3d, at 203–204. It further held that, because petitioner was not a named representative of the class and because he had been properly denied the right to intervene, he lacked standing to challenge the

fairness of the settlement on appeal. *Id.,* at 208–210.

Petitioner sought review of the Fourth Circuit's holding that he lacked the ability to appeal the District Court's approval of the settlement. We granted certiorari, 534 U. S. 1064 (2001), to resolve a disagreement among the Circuits as to whether nonnamed class members who fail to properly intervene may bring an appeal of the approval of a settlement. Compare *Cook* v. *Powell Buick*, *Inc.*, 155 F. 3d 758, 761 (CA5 1998) (holding that nonnamed class members who have not successfully intervened may not appeal settlement approval); *Gottlieb* v. *Wiles*, 11 F. 3d 1004, 1008–1009 (CA10 1993) (same); *Guthrie* v. *Evans*, 815 F. 2d 626, 628–629 (CA11 1987) (same); *Shults* v. *Champion Int'l Corp.*, 35 F. 3d 1056, 1061 (CA6 1994) (same), with *In re PaineWebber Inc. Ltd. Partnerships Litigation*, 94 F. 3d 49, 53 (CA2 1996) (any nonnamed class member who objected at the fairness hearing may appeal); *Carlough* v. *Amchem Prods.*, *Inc.,* 5 F. 3d 707, 710 (CA3 1993) (same); *Marshall* v. *Holiday Magic, Inc.*, 550 F. 2d 1173, 1176 (CA9 1977) (same).

II

Although the Fourth Circuit framed the issue as one of standing, 265 F. 3d, at 204, we begin by clarifying that this issue does not implicate the jurisdiction of the courts under Article III of the Constitution. As a member of the retiree class, petitioner has an interest in the settlement that creates a "case or controversy" sufficient to satisfy the constitutional requirements of injury, causation, and redressability. *Lujan* v. *Defenders of Wildlife,* 504 U. S. 555 (1992); see also *In re Navigant Consulting, Inc., Securities Litigation*, 275 F. 3d 616, 620 (CA7 2001).

Nor do appeals by nonnamed class members raise the sorts of concerns that are ordinarily addressed as a matter of prudential standing. Prudential standing requirements include:

> "[T]he general prohibition on a litigant's raising another person's legal rights, the rule barring adjudication of generalized grievances more appropriately addressed in the representative branches, and the requirement that a plaintiff's complaint fall within the zone of interests protected by the law invoked." *Allen* v. *Wright,* 468 U. S. 737, 751 (1984).

Because petitioner is a member of the class bound by the judgment, there is no question that he satisfies these three requirements. The legal rights he seeks to raise are his own, he belongs to a discrete class of interested parties, and his complaint clearly falls within the zone of interests of the requirement that a settlement be fair to all class members. Fed. Rule Civ. Proc. 23(e).

What is at issue, instead, is whether petitioner should be considered a "party" for the purposes of appealing the approval of the settlement. We have held that "only parties to a lawsuit, or those that properly become parties, may appeal an adverse judgment." *Marino* v. *Ortiz*, 484 U. S. 301, 304 (1988) *(per curiam).* Respondents argue that, because petitioner is not a named class representative and did not successfully move to intervene, he is not a party for the purposes of taking an appeal.

We have never, however, restricted the right to appeal to named parties to the litigation. In *Blossom* v. *Milwaukee & Chicago R. Co.,* 1 Wall. 655 (1864), for instance, we allowed a bidder for property at a foreclosure sale, who was not a named party in the foreclosure action, to appeal the refusal of a request he made during that action to compel the sale. In *Hinckley* v. *Gilman, C., & S. R. Co.,* 94 U. S. 467 (1877), we allowed a receiver, who was an officer of the court rather than a named party to the case, to appeal from an order "relat[ing] to the settlement of his accounts," reasoning that "[f]or this purpose he occupies the position of a party to the suit." *Id.,* at 469. More recently, we have

affirmed that "[t]he right of a nonparty to appeal an adjudication of contempt cannot be questioned," *United States Catholic Conference* v. *Abortion Rights Mobilization, Inc.,* 487 U. S. 72, 76 (1988), given the binding nature of that adjudication upon the interested nonparty.

JUSTICE SCALIA attempts to distinguish these cases by characterizing them as appeals from collateral orders to which the appellants "*were* parties." See *post*, at 3 (dissenting opinion). But it is difficult to see how they were parties in the sense in which JUSTICE SCALIA uses the term—those "named as a party to an action," usually "in the caption of the summons or complaint." See *post*, at 1–2 (quoting Restatement (Second) of Judgments §34(1), p. 345 (1980); *id.,* Comment *a,* Reporter's Note, at 347). Because they were not named in the action, the appellants in these cases were parties only in the sense that they were bound by the order from which they were seeking to appeal.

Petitioner's interest in the District Court's approval of the settlement is similar. Petitioner objected to the settlement at the District Court's fairness hearing, as nonnamed parties have been consistently allowed to do under the Federal Rules of Civil Procedure. See Fed. Rule Civ. Proc. 23(e) ("A class action shall not be dismissed or compromised without the approval of the court, and notice of the proposed dismissal or compromise shall be given to all members of the class in such manner as the court directs"); see also 2 H. Newberg & A. Conte, Class Actions §11.55, p. 11–132 (3d ed. 1992) (explaining that Rule 23(e) entitles all class members to an opportunity to object). The District Court's approval of the settlement—which binds petitioner as a member of the class—amounted to a "final decision of [petitioner's] right or claim" sufficient to trigger his right to appeal. See *Williams* v. *Morgan,* 111 U. S. 684, 699 (1884) (describing the cases discussed above). And like the appellants in the prior cases, petitioner will

only be allowed to appeal that aspect of the District Court's order that affects him—the District Court's decision to disregard his objections. Cf. *supra,* at 4. Petitioner's right to appeal this aspect of the District Court's decision cannot be effectively accomplished through the named class representative—once the named parties reach a settlement that is approved over petitioner's objections, petitioner's interests by definition diverge from those of the class representative.

Marino v. *Ortiz*, *supra,* is not to the contrary. In that case, we refused to allow an appeal of a settlement by a group of white police officers who were not members of the class of minority officers that had brought a racial discrimination claim against the New York Police Department. Although the settlement affected them, the District Court's decision did not finally dispose of any right or claim they might have had because they were not members of the class.

Nor does considering nonnamed class members parties for the purposes of bringing an appeal conflict with any other aspect of class action procedure. In a related case, the Seventh Circuit has argued that nonnamed class members cannot be considered parties for the purposes of bringing an appeal because they are not considered parties for the purposes of the complete diversity requirement in suits under 28 U. S. C. §1332. See *Navigant Consulting*, 275 F. 3d, at 619; see also *Snyder* v. *Harris,* 394 U. S. 332, 340 (1969). According to the Seventh Circuit, "[c]lass members cannot have it both ways, being non-parties (so that more cases can come to federal court) but still having a party's ability to litigate independently." 275 F. 3d, at 619. Nonnamed class members, however, may be parties for some purposes and not for others. The label "party" does not indicate an absolute characteristic, but rather a conclusion about the applicability of various procedural rules that may differ based on context.

Nonnamed class members are, for instance, parties in the sense that the filing of an action on behalf of the class tolls a statute of limitations against them. See *American Pipe & Constr. Co.* v. *Utah,* 414 U. S. 538 (1974). Otherwise, all class members would be forced to intervene to preserve their claims, and one of the major goals of class action litigation—to simplify litigation involving a large number of class members with similar claims—would be defeated. The rule that nonnamed class members cannot defeat complete diversity is likewise justified by the goals of class action litigation. Ease of administration of class actions would be compromised by having to consider the citizenship of all class members, many of whom may even be unknown, in determining jurisdiction. See 7A C. Wright, A. Miller, & M. Kane, Federal Practice and Procedure §1755, pp. 63–64 (2d ed. 1986). Perhaps more importantly, considering all class members for these purposes would destroy diversity in almost all class actions. Nonnamed class members are, therefore, not parties in that respect.

What is most important to this case is that nonnamed class members are parties to the proceedings in the sense of being bound by the settlement. It is this feature of class action litigation that requires that class members be allowed to appeal the approval of a settlement when they have objected at the fairness hearing. To hold otherwise would deprive nonnamed class members of the power to preserve their own interests in a settlement that will ultimately bind them, despite their expressed objections before the trial court. Particularly in light of the fact that petitioner had no ability to opt out of the settlement, see Fed. Rule Civ. Proc. 23(b)(1), appealing the approval of the settlement is petitioner's only means of protecting himself from being bound by a disposition of his rights he finds unacceptable and that a reviewing court might find legally inadequate.

JUSTICE SCALIA rightly notes that other nonnamed parties may be bound by a court's decision, in particular, those in privity with the named party. See *post,* at 4–5. True enough. It is not at all clear, however, that such parties may not themselves appeal. Although this Court has never addressed the issue, nonnamed parties in privity with a named party are often allowed by other courts to appeal from the order that affects them. 5 Am. Jur. 2d §265 (1995).

Respondents argue that, nonetheless, appeals from nonnamed parties should not be allowed because they would undermine one of the goals of class action litigation, namely, preventing multiple suits. See *Guthrie* v. *Evans*, 815 F. 2d 626, 629 (CA11 1987) (arguing that allowing nonnamed class members' appeals would undermine a "fundamental purpose of the class action": "to render manageable litigation that involves numerous members of a homogenous class, who would all otherwise have access to the court through individual lawsuits"). Allowing such appeals, however, will not be as problematic as respondents claim. For one thing, the power to appeal is limited to those nonnamed class members who have objected during the fairness hearing. This limits the class of potential appellants considerably. As the longstanding practice of allowing nonnamed class members to object at the fairness hearing demonstrates, the burden of considering the claims of this subset of class members is not onerous.

III

The Government, as *amicus curiae*, admits that nonnamed class members are parties who may appeal the approval of a settlement, but urges us nonetheless to require class members to intervene for purposes of appeal. See Brief for United States et al. as *Amici Curiae* 12–27. To address the fairness concerns to objecting nonnamed class members bound by the settlement they wish to ap-

peal, however, the Government also asserts that such a limited purpose intervention generally should be available to all those, like petitioner, whose objections at the fairness hearing have been disregarded. Federal Rule of Civil Procedure 24(a)(2) provides for intervention as of right:

> "Upon timely application . . . when the applicant claims an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties."

According to the Government, nonnamed class members who state objections at the fairness hearing should easily meet these three criteria. For one thing, it claims, a settlement binding on them will establish the requisite interest in the action. Moreover, it argues, any intervention motion filed "within the time period in which the named plaintiffs could have taken an appeal" should be considered "timely filed" for the purposes of such limited intervention. *United Airlines, Inc.* v. *McDonald,* 432 U. S. 385, 396 (1977). Finally, it asserts, the approval of a settlement over a nonnamed class member's objection, and the failure of a class representative to appeal such an approval, should "invariably" show that the class representative does not adequately represent the nonnamed class member's interests on appeal. Brief for United States et al. as *Amici Curiae* 20.

Given the ease with which nonnamed class members who have objected at the fairness hearing could intervene for purposes of appeal, however, it is difficult to see the value of the Government's suggested requirement. It identifies only a limited number of instances where the initial intervention motion would be of any use: where the

objector is not actually a member of the settlement class or is otherwise not entitled to relief from the settlement, where an objector seeks to appeal even though his objection was successful, where the objection at the fairness hearing was untimely, or where there is a need to consolidate duplicative appeals from class members. *Id.,* at 23–25. In such situations, the Government argues, a district court can disallow such problematic and unnecessary appeals.

This seems to us, however, of limited benefit. In the first two of these situations, the objector stands to gain nothing by appeal, so it is unlikely such situations will arise with any frequency. JUSTICE SCALIA argues that if such objectors were undeterred by this fact at the time they filed their original objections, they will be undeterred at the appellate level. See *post*, at 7. This misunderstands the point. As to the first group—those who are not actually entitled to relief—one would not expect them to have filed objections in the district court in the first place. The few irrational persons who wish to pursue one round of meaningless relief will, I agree, probably be irrational enough to pursue a second. But there should not be many of such persons in any case. As for the second—those whose objections were successful at the district court level—they were far from irrational in the filing of their initial objections, and they should not generally be expected to lose this level of sensibility when faced with the prospect of a meaningless appeal. Moreover, even if such cases did arise with any frequency, such concerns could be addressed by a standing inquiry at the appellate level.

The third situation—dealing with untimely objections—implicates basic concerns about waiver and should be easily addressable by a court of appeals. A court of appeals also has the ability to avoid the fourth by consolidating cases raising duplicative appeals. Fed. Rule App. Proc. 3(b)(2). If the resolution of any of these issues

should turn out to be complex in a given case, there is little to be gained by requiring a district court to consider these issues, which are the type of issues (standing to appeal, waiver of objections below, and consolidation of appeals) typically addressed only by an appellate court. As such determinations still would most likely lead to an appeal, such a requirement would only add an additional layer of complexity before the appeal of the settlement approval may finally be heard.

Nor do we agree with the Government that, regardless of the desirability of an intervention requirement for effective class management, the structure of the rules of class action procedure requires intervention for the purposes of appeal. According to the Government, intervention is the method contemplated under the rules for nonnamed class members to gain the right to participate in class action proceedings. We disagree. Just as class action procedure allows nonnamed class members to object to a settlement at the fairness hearing without first intervening, see *supra,* at 6, it should similarly allow them to appeal the District Court's decision to disregard their objections. Moreover, no federal statute or procedural rule directly addresses the question of who may appeal from approval of class action settlements, while the right to appeal from an action that finally disposes of one's rights has a statutory basis. 28 U. S. C. §1291.

IV

We hold that nonnamed class members like petitioner who have objected in a timely manner to approval of the settlement at the fairness hearing have the power to bring an appeal without first intervening. We therefore reverse the judgment of the Court of Appeals for the Fourth Circuit and remand the case for further proceedings consistent with this opinion.

It is so ordered.