

No. 15-56808

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

DR. MELISSA STRAFFORD, ET AL., ON BEHALF OF THEMSELVES
AND ALL OTHER PERSONS SIMILARLY SITUATED,

PLAINTIFFS-PETITIONERS,

v.

ELI LILLY AND COMPANY, AN INDIANA CORPORATION,

DEFENDANT-RESPONDENT.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE
CENTRAL DISTRICT OF CALIFORNIA
CASE No. 2:12-cv-9366-SVW (MAN)

**STATUS REPORT OF
DEFENDANT-APPELLEE ELI LILLY AND COMPANY**

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Defendant-Appellee Eli Lilly and Company (“Lilly”) respectfully submits this Status Report pursuant to the Court’s February 21, 2017 Order (Dkt. No. 60) staying appellate proceedings pending the Supreme Court’s resolution of *Microsoft Corp v. Baker, et al.*, No. 15-457. Specifically, the Court directed Lilly to file a status report “[w]ithin 14 days after the Supreme Court of the United States issues an opinion in *Microsoft*” or “on or before June 13, 2017, if the Supreme Court has not issued a decision before that date.”

Microsoft was argued on March 21, 2017, and the Supreme Court issued its decision on June 12, 2017, holding that a federal court of appeals lacks jurisdiction to review an order denying class certification after the named plaintiffs voluntarily dismiss their claims with prejudice. *See Microsoft Corp. v. Baker*, 582 U.S. ____ (2017), slip op. at 2 (Sup. Ct. June 12, 2017) (holding that “voluntary dismissal essayed by respondents does not qualify as a ‘final decision’ within the compass of §1291” because such “tactic would undermine §1291’s firm finality principle, designed to guard against piecemeal appeals, and subvert the balanced solution Rule 23(f) put in place for immediate review of class-action orders”) (attached as Ex. A). The *Microsoft* decision therefore confirms that the Court lacks jurisdiction over this appeal and the appeal should be dismissed. In accordance with this Court’s Order, Lilly will submit a motion for appropriate relief within 14 days of the *Microsoft* decision—on or before June 26, 2017.

Respectfully submitted,

Dated: June 13, 2017

/s/ Michael M. Maya

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CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of June, 2017, I caused true and correct copies of the foregoing Status Report of Defendant-Appellee Eli Lilly and Company to be served upon the following by CM/ECF:

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