

FILED

JUL 17 2017

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

BRIAN CONNELLY; KEITH MERRITT,  
on behalf of themselves and all others  
similarly situated,

Plaintiffs-Appellants,

v.

HILTON GRAND VACATIONS  
COMPANY, LLC,

Defendant-Appellee.

No. 14-55431

D.C. No. 3:12-cv-00599-JLS-KSC

MEMORANDUM\*

Appeal from the United States District Court  
for the Southern District of California  
Janis L. Sammartino, District Judge, Presiding

Argued and Submitted on May 5, 2016  
Withdrawn from Submission on February 8, 2017  
Resubmitted on July 17, 2017  
Pasadena, California

Before: KOZINSKI, W. FLETCHER, and GOULD, Circuit Judges.

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

After the district court denied a motion for class certification, the parties stipulated to a voluntary dismissal with prejudice. Plaintiffs appeal the denial of class certification.

The Supreme Court recently held that a voluntary dismissal of this sort does not qualify as a final decision within the meaning of 28 U.S.C. § 1291. *Microsoft Corp. v. Baker*, 137 S. Ct. 1702, 1715 (2017) (“Plaintiffs in putative class actions cannot transform a tentative interlocutory order into a final judgment within the meaning of § 1291 simply by dismissing their claims with prejudice . . . .”) (internal citations omitted). We **DISMISS** the appeal for lack of jurisdiction.

This case is resubmitted concurrently with the filing of this disposition.