

17-1094 NUTRACEUTICAL CORP. V. LAMBERT

DECISION BELOW: 870 F.3d 1170

LOWER COURT CASE NUMBER: 15-56423

QUESTION PRESENTED:

Federal Rule of Civil Procedure 23(f) establishes a fourteen-day deadline to file a petition for permission to appeal an order granting or denying class-action certification. On numerous occasions, this Court left undecided whether mandatory claim-processing rules, like Rule 23 (f), are subject to equitable exceptions, because the issue was not raised below. *See, e.g., Hamer v. Neighborhood Hous. Serv. of Chicago*, 138 S. Ct. 13, 18 n.3, 22 (2017). That obstacle is not present here.

The question presented is: did the Ninth Circuit err by holding that equitable exceptions apply to mandatory claim-processing rules and excusing a party's failure to timely file a petition for permission to appeal, or a motion for reconsideration, within the Rule 23(f) deadline?

As the Ninth Circuit acknowledged below, its decision conflicts with other United States Circuit Courts of Appeals that have considered this issue (the Second, Third, Fourth, Fifth, Seventh, Tenth, and Eleventh Circuits).

CERT. GRANTED 6/25/2018