

SUPREME COURT OF MICHIGAN

Brindley v. Severstal North America, Inc.

775 N.W.2d 742 (Mich. 2009) · No. No. 137949; COA No. 286155 · Decided December 18, 2009

SUMMARY

The Michigan Supreme Court remanded a class-certification matter to the Wayne Circuit Court for proceedings consistent with Henry v. Dow Chemical. The Court stated that the circuit court appeared to have independently considered the certification prerequisites but had used language potentially inconsistent with Henry, while a dissent argued that the circuit court clearly relied on the repudiated Neal standard and should have been directed to clarify its analysis.

CASE DETAILS

COURT	Supreme Court of Michigan
WRITING FOR THE COURT	Corrigan, J.; Young, J.; Markman, J.
JURISDICTION	Michigan
DECIDED	December 18, 2009
DOCKET	No. 137949; COA No. 286155
DISPOSITION	remanded
PROCEDURAL POSTURE	The Michigan Supreme Court considered Severstal's application for leave to appeal from the Michigan Court of Appeals' November 12, 2008 order concerning class certification. After deciding Henry v. Dow Chemical, the court remanded the case to the Wayne Circuit Court in lieu of granting leave to appeal.
STANDARD OF REVIEW	Class-certification determinations are reviewed for abuse of discretion, subject to the requirement that the trial court independently analyze the factual and legal basis for each certification prerequisite under MCR 3.501(A)(1).
PRECEDENTIAL VALUE	Published Michigan Supreme Court per curiam order; binding on Michigan courts to the extent it states and applies the governing class-certification standard.
PARTIES	Severstal North America, Inc. v. Alicia Brindley, Max Franklin, Barbara Franklin

TOPICS

class actions

appellate procedure

civil procedure

standard of review

PRACTICE AREAS

civil procedure

appellate procedure

torts

QUESTIONS PRESENTED

1. Whether the Wayne Circuit Court applied the proper standard under *Henry v. Dow Chemical* when evaluating the prerequisites for class certification under MCR 3.501(A)(1).
2. Whether the circuit court's class-certification analysis required remand for reconsideration or clarification.

HOLDINGS

1. A trial court may not treat plaintiffs' bare assertions that the class-certification prerequisites are met as true; it must independently determine whether plaintiffs have alleged a sufficient factual and legal basis for each prerequisite under MCR 3.501(A)(1).
2. The case should be remanded to the Wayne Circuit Court, in lieu of granting leave to appeal, so that the circuit court may revisit its class-certification analysis if its original decision depended on a framework inconsistent with *Henry*.

KEY QUOTATIONS

"The circuit court prefaced its analysis, however, with the statement that 'the trial court is required to accept the allegations made in support of the request for certification as true.' This statement is inconsistent with the standard adopted in Henry 'to the extent that it could be read to require courts to accept as true plaintiffs' bare assertions that the class certification prerequisites are met.'" (775 N.W.2d at 743)

FACTUAL BACKGROUND

Plaintiffs sought class certification based on alleged discharge of fallout and dust by Severstal, asserting nuisance and negligence claims. The Wayne Circuit Court granted certification and analyzed typicality, adequacy, and superiority. In doing so, it stated that allegations supporting certification had to be accepted as true, a formulation the Supreme Court had rejected in *Henry* to the extent it required acceptance of bare assertions that certification prerequisites were met.

PROCEDURAL HISTORY

The application for leave to appeal was held in abeyance pending the Supreme Court's decision in *Henry v. Dow Chemical*. After *Henry* was decided, the Supreme Court remanded the case to the Wayne Circuit Court. The majority concluded that the circuit court appeared to have independently determined that plaintiffs had alleged a sufficient factual and legal basis for the MCR 3.501(A)(1) prerequisites and had not abused its discretion, but permitted the circuit court to revisit its analysis if it had relied on an inconsistent framework. Justice Corrigan dissented, arguing that the circuit court had expressly relied on the repudiated Neal standard and should have been directed to clarify its class-certification analysis.

DISPOSITION

remanded

REMAND INSTRUCTIONS

Remand to the Wayne Circuit Court for proceedings consistent with the order. The circuit court may revisit its class-certification analysis if it determines that its original decision depended on an analytical framework inconsistent with *Henry v. Dow Chemical*, and may conduct an evidentiary hearing in its discretion. The Supreme Court did not retain jurisdiction.

CASES CITED

- *Henry v. Dow Chem. Co.*, 484 Mich. 483, 772 N.W.2d 301 (2009)
- *Neal v. James*, 252 Mich. App. 12, 651 N.W.2d 181 (2002)