

SUPREME COURT OF THE STATE OF MONTANA

Chipman v. Northwest Healthcare Corp.

2012 MT 242 (2012) · No. DA 12-0050 · Decided October 30, 2012

SUMMARY

The Montana Supreme Court affirmed a district court order certifying a class action brought by healthcare employees challenging the discontinuation of a sick-leave buy-back program. The Court held that the employees had standing based on threatened injury to their contractual and wage-related rights and discussed whether named plaintiffs could sue affiliated employers with whom they did not directly work. The opinion addresses justiciability, standing, juridical links among defendants, and class certification under Montana Rule of Civil Procedure 23.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Justice Patricia O. Cotter; Patricia O. Cotter; Mike McGrath; James C. Nelson; Michael E. Wheat; Beth Baker; Brian Morris; Jim Rice
JURISDICTION	Montana
DECIDED	October 30, 2012
DOCKET	DA 12-0050
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendants appealed the District Court's order granting Plaintiffs' motion for class certification and determining that the named Plaintiffs had standing to sue the affiliated defendants.
STANDARD OF REVIEW	Standing and other justiciability issues are reviewed de novo for correctness. Class-certification decisions are reviewed for abuse of discretion, with substantial respect accorded to the district court's judgment.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Northwest Healthcare Corporation, Kalispell Regional Medical Center, Inc., Brendan House, The Summit, Applied Health Services, Inc., Northwest Orthopedic & Sports Medicine, L.L.C. v. Sheila Chipman, Deborah Wallen, Ellen Hames, the certified class

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QUESTIONS PRESENTED

1. Whether the named Plaintiffs had standing to challenge the discontinuation of the continued-illness-bank buy-back program before they had completed twenty-five years of employment.
2. Whether the named Plaintiffs had standing to sue affiliated employers for whom they had not directly worked based on a concerted scheme and juridical link.
3. Whether the District Court abused its discretion in certifying the class under Montana Rule of Civil Procedure 23(a) and Rule 23(b)(1).

HOLDINGS

1. Employees who had accrued continued-illness-bank hours had standing to challenge the employers' discontinuation of the buy-back program even though the named Plaintiffs had not yet completed twenty-five years of employment. The discontinuation threatened an existing property or contractual right and was not merely a speculative future injury.
2. The named Plaintiffs had standing to maintain claims against the affiliated employers for whom they did not directly work because the defendants were connected by a concerted scheme and a juridical link based on common ownership and identical employment terms.
3. The District Court did not abuse its discretion in finding numerosity, commonality, typicality, and adequacy of representation under Montana Rule of Civil Procedure 23(a).
4. The District Court properly certified the class under Montana Rule of Civil Procedure 23(b)(1).

KEY QUOTATIONS

“Accordingly, we hold that Employees sufficiently alleged a threatened injury to a property right and therefore have standing to challenge the Employers’ discontinuation of the CIB buy-back program.” (¶ 36)

“We therefore hold that the injuries alleged by the class members were the result of a concerted scheme and a juridical link exists between Employers based on common ownership and identical employment terms.” (¶ 41)

“What matters to class certification . . . is not the raising of common “questions”—even in droves—but, rather the capacity of a classwide proceeding to generate common answers apt to drive the resolution of the litigation.” (¶ 48)

FACTUAL BACKGROUND

The defendant healthcare entities were affiliated corporations owned or controlled by Northwest Healthcare Corporation and used a standardized employment handbook and policies-and-procedures manual. They operated an identical continued illness bank program under which eligible employees accrued sick-leave hours and

employees with at least twenty-five years of service could receive payment for unused hours upon retirement or severance. In July 2008, Kalispell Regional Medical Center discontinued the buy-back program, preserving it only for employees who had already completed twenty-five years of employment. The named Plaintiffs, all KRMC employees, challenged the discontinuation as a contractual and wage-law violation and sought class certification.

PROCEDURAL HISTORY

Three KRMC employees filed a putative class action alleging that the employers' discontinuation of a continued-illness-bank sick-leave buy-back program breached employment contracts and violated the Montana Wage Protection Act. The Eleventh Judicial District Court certified a class, dismissed defendants not included in the class definition, and stayed class-certification proceedings pending appeal while retaining jurisdiction over the merits. The Montana Supreme Court affirmed the certification order and the determination that Plaintiffs had standing.

DISPOSITION

affirmed

CASES CITED

- Reichert v. State, 2012 MT 111, 365 Mont. 92, 278 P.3d 455
- Montana State Fund v. Simms, 2012 MT 22, 364 Mont. 14, 270 P.3d 64
- Heffernan v. Missoula City Council, 2011 MT 91, 360 Mont. 207, 255 P.3d 80
- LaMere v. Farmers Ins. Exch., 2011 MT 272, 362 Mont. 379, 265 P.3d 617
- Hop v. Safeco Ins. Co., 2011 MT 215, 361 Mont. 510, 261 P.3d 981
- Newman v. Lichfield, 2012 MT 47, 364 Mont. 243, 272 P.3d 625
- Diaz v. Blue Cross & Blue Shield, 2011 MT 322, 363 Mont. 151, 267 P.3d 756
- Sieglock v. Burlington Northern & Santa Fe Ry. Co., 2003 MT 355, 319 Mont. 8, 81 P.3d 495
- Greater Missoula Area Federation of Early Childhood Educators v. Child Start, Inc., 2009 MT 362, 353 Mont. 201, 219 P.3d 881
- Dennis v. Brown, 2005 MT 85, 326 Mont. 422, 110 P.3d 17
- Powder River County v. State, 2002 MT 259, 312 Mont. 198, 60 P.3d 357
- Northfield Insurance Co. v. Montana Association of Counties, 2000 MT 256, 301 Mont. 472, 10 P.3d 813
- Williamson v. Montana Public Service Commission, 2012 MT 32, 364 Mont. 128, 272 P.3d 71
- Montana Trout Unlimited v. Beaverhead Water Co., 2011 MT 151, 361 Mont. 77, 255 P.3d 179
- Helena Parents Commission v. Lewis & Clark County Commissioners, 277 Mont. 367, 922 P.2d 1140 (1996)
- Lee v. State of Oregon, 107 F.3d 1382 (9th Cir. 1997)
- Bova v. City of Medford, 564 F.3d 1093 (9th Cir. 2009)
- Auerbach v. Board of Education, 136 F.3d 104 (2d Cir. 1998)
- McKamey v. State, 268 Mont. 137, 885 P.2d 515 (1994)

- *Gryczan v. State*, 283 Mont. 433, 942 P.2d 112 (1997)
- *Murer v. Montana State Compensation Mutual Insurance Fund*, 257 Mont. 434, 849 P.2d 1036 (1993)
- *La Mar v. H & B Novelty & Loan Co.*, 489 F.2d 461 (9th Cir. 1973)
- *In re Intel Securities Litigation*, 89 F.R.D. 104 (N.D. Cal. 1981)
- *Payton v. County of Kane*, 308 F.3d 673 (7th Cir. 2002)
- *Moore v. Comfed Savings Bank*, 908 F.2d 834 (11th Cir. 1990)
- *Fallick v. Nationwide Mutual Insurance Co.*, 162 F.3d 410 (6th Cir. 1998)
- *Barker v. FSC Securities Corp.*, 133 F.R.D. 548 (W.D. Ark. 1989)
- *TCI Cablevision of Dallas v. Owens*, 8 S.W.3d 837 (Tex. App. 2000)
- *Weld v. Glaxo Wellcome, Inc.*, 746 N.E.2d 522 (Mass. 2001)
- *In re Activision Securities Litigation*, 621 F. Supp. 415 (N.D. Cal. 1985)
- *Ferguson v. Safeco Insurance Co. of America*, 2008 MT 109, 342 Mont. 380, 180 P.3d 1164
- *Mattson v. Montana Power Co.*, 2009 MT 286, 352 Mont. 212, 215 P.3d 675
- *General Telephone Co. of the Southwest v. Falcon*, 457 U.S. 147, 102 S. Ct. 2364 (1982)
- *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 131 S. Ct. 2541 (2011)
- *McDonald v. Washington*, 261 Mont. 392, 862 P.2d 1150 (1993)
- *Polich v. Burlington Northern*, 116 F.R.D. 258 (D. Mont. 1987)

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