

SUPREME COURT OF MISSOURI

Meyer ex rel. Coplin v. Fluor Corp.

220 S.W.3d 712 (Mo. banc 2007) · No. SC 87771 · Decided March 20, 2007

SUMMARY

The Supreme Court of Missouri, En Banc, reviewed the denial of class certification in a toxic-tort action involving children allegedly exposed to lead emissions from the Doe Run smelter. The court held that the circuit court improperly treated individualized personal-injury issues as predominant over common issues relevant to a medical-monitoring claim, reversed the denial of certification, and remanded for further proceedings, including consideration of typicality.

CASE DETAILS

COURT	Supreme Court of Missouri
WRITING FOR THE COURT	Richard B. Teitelman; Wolff, C.J.; Stith, J.; White, J.; Price, J.; Russell, J.; Limbaugh, J.
JURISDICTION	Missouri
DECIDED	March 20, 2007
DOCKET	SC 87771
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Plaintiff appealed the circuit court's denial of her motion for certification of a proposed class seeking medical-monitoring damages arising from alleged exposure to lead and other toxins emitted by the Doe Run smelter.
STANDARD OF REVIEW	An order granting or denying class certification is reviewed for abuse of discretion. The trial court may not conduct a preliminary inquiry into whether the plaintiff has stated a cause of action or will prevail on the merits during the certification proceeding.
PRECEDENTIAL VALUE	Published en banc opinion; binding Missouri Supreme Court precedent.
PARTIES	Lani Meyer, by and through her next friend, Rebecca Coplin v. Fluor Corporation, other entities and individuals

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QUESTIONS PRESENTED

1. Whether the circuit court abused its discretion by denying class certification after treating individualized questions concerning present physical injuries as predominant in a proposed medical-monitoring class action.
2. Whether a present physical injury is required to support a claim for medical-monitoring damages under Missouri law.
3. Whether the appellate court should decide the proposed representative's typicality and party-substitution issues or remand those issues to the circuit court.

HOLDINGS

1. The circuit court erred by concluding that individual issues predominated based on questions primarily relevant to a personal-injury action. Under the plaintiff's theory, the common issue of exposure to toxins from a single source and the significance of that exposure could predominate over individualized questions.
2. A present physical injury is not a prerequisite to recovery of medical-monitoring damages. Upon proper proof, a plaintiff may recover the quantifiable costs of reasonably necessary periodic medical examinations for early detection and treatment of latent injuries caused by toxic exposure.
3. The court would not decide the proposed representative's typicality or any party-substitution issue in the first instance. Those matters were remanded to the circuit court for findings.

KEY QUOTATIONS

"The injury for which compensation is sought is not a present physical injury. Instead, medical monitoring damages compensate the plaintiff for the quantifiable costs of periodic medical examinations reasonably necessary for the early detection and treatment of latent injuries caused by the plaintiff's exposure to toxic substances." (220 S.W.3d at 717-718)

"It is the common fact of exposure to a set of toxins from a single source that is the common and overriding issue in Plaintiff's case." (220 S.W.3d at 719)

"The circuit court misapplied the law by applying personal injury concepts to Plaintiff's medical monitoring claim and in holding that these individual personal injury issues were predominate over common issues." (220 S.W.3d at 720)

FACTUAL BACKGROUND

Fluor Corporation and other defendants were involved in operating the Doe Run lead smelter in Herculaneum, Missouri, which allegedly emitted lead and other toxins into the surrounding environment. Plaintiff alleged that

she and more than 200 other children were exposed to those emissions and sought compensatory damages to establish a program for ongoing diagnostic monitoring. The proposed class included minors who lived, attended school or day care, or whose mothers lived during pregnancy within a specified geographic area and exposure period.

PROCEDURAL HISTORY

The circuit court found that individual issues would predominate over common issues and denied class certification under Rule 52.08(b)(3). The Supreme Court of Missouri reversed, holding that the circuit court improperly analyzed the proposed medical-monitoring claim using concepts primarily relevant to personal-injury claims. The case was remanded for further proceedings, including consideration of typicality and possible substitution of parties.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The circuit court must reconsider the class-certification motion without applying personal-injury concepts that require present physical injury, and must address typicality and any issue concerning substitution of parties in the first instance.

CASES CITED

- State ex rel. Union Planters Bank, N.A. v. Kendrick, 142 S.W.3d 729, 735 (Mo. banc 2004)
- Eisen v. Carlisle & Jacquelin, 417 U.S. 156, 177-178 (1974)
- Dale v. DaimlerChrysler Corp., 204 S.W.3d 151, 164 (Mo. App. 2006)
- Daigle v. Shell Oil Co., 133 F.R.D. 600, 602 (D. Colo. 1990)
- State ex rel. American Family Mutual Insurance Co. v. Clark, 106 S.W.3d 483, 488 (Mo. banc 2003)
- South Carolina National Bank v. Stone, 139 F.R.D. 325, 331 (D.S.C. 1991)
- Lewis v. National Football League, 146 F.R.D. 5, 12 (D.D.C. 1992)
- Freedman v. Louisiana-Pacific Corp., 922 F. Supp. 377, 401 (D. Or. 1996)
- Gaspar v. Linvatec Corp., 167 F.R.D. 51, 60 (N.D. Ill. 1996)
- Castano v. American Tobacco Co., 84 F.3d 734, 744 (5th Cir. 1996)
- Ayers v. Jackson Township, 106 N.J. 557, 525 A.2d 287, 308 (1987)
- Bower v. Westinghouse Electric Corp., 206 W. Va. 133, 522 S.E.2d 424, 429-433 (1999)
- Elam v. Alcolac, Inc., 765 S.W.2d 42, 208-209 (Mo. App. 1988)
- Wilcox v. Swenson, 324 S.W.2d 664, 673 (Mo. 1959)
- Seabaugh v. Milde Farms, Inc., 816 S.W.2d 202, 210-211 (Mo. banc 1991)
- Potter v. Firestone Tire & Rubber Co., 6 Cal. 4th 965, 25 Cal. Rptr. 2d 550, 863 P.2d 795 (1993)
- Friends for All Children, Inc. v. Lockheed Aircraft Corp., 746 F.2d 816, 826 (D.C. Cir. 1984)

- *Petito v. A.H. Robins*, 750 So. 2d 103, 105 (Fla. App. 2000)
- *In re Paoli Railroad Yard PCB Litigation*, 916 F.2d 829, 850, 852 (3d Cir. 1990)
- *In re 'Agent Orange' Product Liability Litigation*, 818 F.2d 145, 165 (2d Cir. 1987)
- *Owner-Operator Independent Drivers Association v. New Prime*, 213 F.R.D. 537, 547 (W.D. Mo. 2002)
- *Business Men's Assurance Co. of America v. Graham*, 984 S.W.2d 501, 506 (Mo. banc 1999)
- *Amchem Products, Inc. v. Windsor*, 521 U.S. 591, 626 (1997)
- *Wall v. Sunoco, Inc.*, 211 F.R.D. 272, 279 (M.D. Pa. 2002)
- *Asmus v. Capital Region Family Practice*, 115 S.W.3d 427, 433-434 (Mo. App. 2003)
- *Union Center Redevelopment Corp. v. Leslie*, 733 S.W.2d 6, 8 (Mo. App. 1987)