

WASHINGTON SUPREME COURT

Pickett v. Holland America Line-Westours, Inc.

145 Wash. 2d 178 (2001) · Decided November 29, 2001

SUMMARY

The Washington Supreme Court reviewed approval of a class-action settlement involving Holland America’s collection and representation of cruise “port charges and taxes.” The court held that appellate review should focus on whether the settlement was fair, adequate, and reasonable, rather than deciding the merits of the underlying class-certification ruling. Applying an abuse-of-discretion standard, the court concluded that the settlement should be approved.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Washington Supreme Court                                                                                                                                                                                                                                                                                                                                                                                                             |
| WRITING FOR THE COURT | Madsen, J.; Madsen; Alexander; Smith; Johnson; Ireland; Bridge; Owens                                                                                                                                                                                                                                                                                                                                                                |
| JURISDICTION          | Washington                                                                                                                                                                                                                                                                                                                                                                                                                           |
| DECIDED               | November 29, 2001                                                                                                                                                                                                                                                                                                                                                                                                                    |
| DISPOSITION           | reversed                                                                                                                                                                                                                                                                                                                                                                                                                             |
| PROCEDURAL POSTURE    | A class-action objector appealed the trial court's approval of a proposed settlement. The Court of Appeals reversed, reasoning in part that the trial court had improperly denied class certification. The Washington Supreme Court granted review and considered whether the Court of Appeals should have reached the merits of the prior class-certification ruling and whether the settlement was fair, adequate, and reasonable. |
| STANDARD OF REVIEW    | A trial court's approval of a class-action settlement is reviewed for abuse of discretion. An appellate court's review is more limited than the trial court's and should not decide the ultimate merits of the underlying dispute.                                                                                                                                                                                                   |
| PRECEDENTIAL VALUE    | published precedential Washington Supreme Court opinion                                                                                                                                                                                                                                                                                                                                                                              |
| PARTIES               | Leonard Bebchick v. Holland America Line-Westours, Inc., Francine Pickett, Brian Cohen, Jack Masin, Belle Masin                                                                                                                                                                                                                                                                                                                      |

TOPICS

class actions

consumer protection

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## PRACTICE AREAS

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## QUESTIONS PRESENTED

1. Whether the Court of Appeals erred by deciding the merits of the trial court's denial of class certification when reviewing approval of a class-action settlement.
2. Whether the settlement was fair, adequate, and reasonable under Washington Civil Rule 23(e).
3. What standard governs appellate review of a trial court's approval of a class-action settlement.

## HOLDINGS

1. When reviewing approval of a class-action settlement, an appellate court should confine its review to whether the settlement is fair, adequate, and reasonable and should not decide the merits of the trial court's earlier denial of class certification in the first instance.
2. A proposed class-action settlement may be approved when the trial court determines that it is fair, adequate, and reasonable, and the approval is reviewed for abuse of discretion.

## KEY QUOTATIONS

*“the court’s intrusion upon what is otherwise a private consensual agreement negotiated between the parties to a lawsuit must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned.”* (at 189)

*“Accordingly, we hold that the Court of Appeals erred by deciding the merits of the trial court’s denial of class certification in the first instance.”* (at 191)

*“Based on the foregoing considerations we reverse the Court of Appeals and approve the settlement as “fair, adequate, and reasonable.””* (at 201)

## FACTUAL BACKGROUND

The plaintiffs alleged that Holland represented cruise port charges and taxes as governmental fees even though part of the amounts collected were retained for other corporate purposes. The proposed class included more than 750,000 consumers who purchased cruises during the relevant period, and the settlement provided transferable travel vouchers ranging from \$10 to \$50. After notice, fewer than 50 objections were received, and the trial court found the settlement fair, reasonable, and adequate.

## PROCEDURAL HISTORY

Plaintiffs brought Washington Consumer Protection Act, unjust-enrichment, and negligent-misrepresentation claims concerning alleged markup of cruise port charges and taxes and moved for class certification. The trial court denied certification, and discretionary interlocutory review was denied. The parties later negotiated a

settlement, the trial court conditionally certified a settlement class, approved the settlement after notice and an opportunity to object, and entered judgment dismissing the action with prejudice. Leonard Bebchick objected and appealed; the Court of Appeals reversed, and the Washington Supreme Court reversed the Court of Appeals and approved the settlement.

## DISPOSITION

reversed

## REMAND INSTRUCTIONS

The Court of Appeals' decision was reversed, and the class settlement was approved as fair, adequate, and reasonable. No further remand instruction was stated.

## CASES CITED

- Pickett v. Holland America Line-Westours, Inc., 101 Wn. App. 901, 922, 6 P.3d 63 (2000)
- Officers for Justice v. Civil Service Commission, 688 F.2d 615, 623-25 (9th Cir. 1982)
- American Pipe & Construction Co. v. Utah, 414 U.S. 538, 550-51, 94 S. Ct. 756, 38 L. Ed. 2d 713 (1974)
- Anderson v. Unisys Corp., 47 F.3d 302, 308 (8th Cir. 1995)
- Phillips Petroleum Co. v. Shutts, 472 U.S. 797, 820-22, 105 S. Ct. 2965, 86 L. Ed. 2d 628 (1985)
- Hangman Ridge Training Stables, Inc. v. Safeco Title Ins. Co., 105 Wn.2d 778, 793, 719 P.2d 531 (1986)
- Nuttall v. Dowell, 31 Wn. App. 98, 111, 639 P.2d 832 (1982)
- Mason v. Mortgage America, Inc., 114 Wn.2d 842, 792 P.2d 142 (1990)
- City of Detroit v. Grinnell Corp., 495 F.2d 448, 454-55 (2d Cir. 1974)
- Reed v. General Motors Corp., 703 F.2d 170, 175 (5th Cir. 1983)