

SUPREME COURT OF MICHIGAN

Robert and Shirley Hill, Timothy Carlson, Randall and Linda Kolodziejski, William and Beverly Glasson, David and Kristin Abraham, Dennis D. Marlowe, Dennis and Tracy Hight, Ted Dobek, Carolyn Kupiec, Frederick and Michelle Cross, Sandra Powers, Daniel G. Olivares, Francesco and Pamela Simone, Gary Potapshyn, Gerald Kowalski, and Frank Vitale v. City of Warren

671 N.W.2d 534 (Mich. 2003) · No. Docket No. 123318; COA No. 229292 · Decided November 21, 2003

SUMMARY

The Michigan Supreme Court reversed the Court of Appeals and remanded a class-certification dispute involving homeowners' claims against the City of Warren arising from tree-related property damage. The majority concluded that the trial court's denial of class certification was not clearly erroneous, while two justices dissented, concluding that commonality, typicality, and superiority were satisfied.

CASE DETAILS

COURT	Supreme Court of Michigan
WRITING FOR THE COURT	Marilyn J. Kelly; Michael F. Cavanagh
JURISDICTION	Michigan
DECIDED	November 21, 2003
DOCKET	Docket No. 123318; COA No. 229292
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Michigan Supreme Court, in lieu of granting leave to appeal, reviewed the Court of Appeals' reversal of the trial court's denial of class certification.
STANDARD OF REVIEW	The Supreme Court held that the Macomb Circuit Court's denial of class certification was not clearly erroneous.
PRECEDENTIAL VALUE	Published Michigan Supreme Court opinion
PARTIES	City of Warren v. Robert and Shirley Hill, Timothy Carlson, Randall and Linda Kolodziejski, William and Beverly Glasson, David and

Kristin Abraham, Dennis D. Marlowe, Dennis and Tracy Hight, Ted Dobek, Carolyn Kupiec, Frederick and Michelle Cross, Sandra Powers, Daniel G. Olivares, Francesco and Pamela Simone, Gary Potapshyn, Gerald Kowalski, Frank Vitale

TOPICS

class actions appellate procedure standard of review civil procedure municipal law

PRACTICE AREAS

civil procedure appellate procedure municipal law

QUESTIONS PRESENTED

1. Whether the Court of Appeals properly reversed the Macomb Circuit Court's denial of class certification.
2. Whether the circuit court's denial of class certification was clearly erroneous.

HOLDINGS

1. The Macomb Circuit Court's denial of class certification was not clearly erroneous.

FACTUAL BACKGROUND

Warren had lined its streets with trees and required one in front of every house, while prohibiting residents from removing them. Over time, tree roots allegedly damaged sewer lines, sidewalks, and lawns. After the City denied some homeowners' requests to remove the trees, the homeowners sued and sought class certification.

PROCEDURAL HISTORY

Homeowners sued the City of Warren and sought class certification concerning damage allegedly caused by city-required street trees. The Macomb Circuit Court denied certification, finding that commonality, typicality, and superiority had not been established. The Court of Appeals reversed, and the Michigan Supreme Court reversed the Court of Appeals and remanded to the circuit court.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The matter was remanded to the Macomb Circuit Court for further proceedings.

CASES CITED

- Pohutski v. City of Allen Park, 465 Mich. 675, 641 N.W.2d 219 (2002)
- Sterling v. Velsicol Chemical Corp., 855 F.2d 1188 (6th Cir. 1988)

- People v. Johnson, 466 Mich. 491, 497, 647 N.W.2d 480 (2002)

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