

SUPREME COURT OF ARKANSAS

Beverly Enterprises-Arkansas, Inc. v. Thomas, 370 Ark. 310

259 S.W.3d 445 (2007) · No. No. 06-877 · Decided June 21, 2007

SUMMARY

The Arkansas Supreme Court affirmed certification of a class action involving nursing-home residents' contractual and statutory claims against Beverly Enterprises-Arkansas, Inc. The court held that the common issue of whether the facility was chronically understaffed predominated over individual issues and that a class action was the superior method of adjudication. The court also upheld the adequacy of the class representative and declined to consider certain unpreserved arguments.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Robert L. Brown
JURISDICTION	Arkansas
DECIDED	June 21, 2007
DOCKET	No. 06-877
DISPOSITION	affirmed
PROCEDURAL POSTURE	Beverly appealed an order of the Independence County Circuit Court granting Thomas's motion to certify a class action involving breach-of-contract and Arkansas Residents' Rights Act claims. The Supreme Court of Arkansas reviewed the class-certification ruling for abuse of discretion.
STANDARD OF REVIEW	Class-certification decisions are reviewed for abuse of discretion. The appellate court reviews the evidence in the record to determine whether it supports the circuit court's decision and does not decide the merits of the underlying claims at the certification stage.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; precedential.
PARTIES	Beverly Enterprises-Arkansas, Inc., d/b/a Batesville Nursing and Rehabilitation Center v. Annette Thomas, as Permanent Guardian of the Estate of Helen Cook, an Incapacitated Person, and All Others Similarly Situated

TOPICS

class actions

civil procedure

appellate procedure

preservation of error

health law

PRACTICE AREAS

class actions

civil procedure

nursing home liability

health law

contracts

QUESTIONS PRESENTED

1. Whether the circuit court abused its discretion by finding that common issues concerning alleged systemic understaffing predominated over individual issues under Arkansas Rule of Civil Procedure 23.
2. Whether a class action was the superior method for resolving the common liability issues.
3. Whether Thomas and her counsel adequately represented the class under Rule 23(a)(4).
4. Whether Beverly was judicially estopped from challenging class certification based on its position in a separate case.

HOLDINGS

1. Thomas's judicial-estoppel argument was not preserved for appellate review because she did not present the specific elements of judicial estoppel to the circuit court and did not obtain a ruling on the issue.
2. The predominance requirement was satisfied because the common, preliminary issue whether the Batesville facility was chronically understaffed in violation of residents' statutory and contractual rights could be resolved before individualized damages and restitution issues.
3. The class action was the superior method for resolving the common liability issues because it efficiently addressed the alleged systemic understaffing for approximately 489 class members while remaining fair and manageable for both sides.
4. The circuit court did not abuse its discretion in finding that Thomas and her counsel adequately represented the class.

KEY QUOTATIONS

“Thus, six requirements must be met before a lawsuit can be certified as a class action under Rule 23:(1) numerosity; (2) commonality; (3) typicality; (4) adequacy; (5) predominance; and (6) superiority.” (at 449)

“We hold that the circuit court did not abuse its discretion in determining that the overarching issue of understaffing is common to the class and may be resolved before individual issues of damages must be addressed.” (at 450)

“We hold that the circuit court did not abuse its discretion in ruling that a class action is the superior method to resolve this case.” (at 452)

FACTUAL BACKGROUND

Residents of Beverly's Batesville nursing facility entered into the same form of Resident Admission Agreement and were subject to the Arkansas Residents' Rights Act. Thomas alleged that Beverly failed to provide adequate staffing and a clean, safe living environment, resulting in violations of residents' contractual and statutory rights.

The proposed class covered residents and estates of residents who lived at the facility between September 13, 2000, and June 30, 2004; the class claims concerned contract and statutory violations, not individual medical-malpractice or personal-injury claims.

PROCEDURAL HISTORY

Thomas filed a putative class action alleging that Beverly's Batesville nursing facility was chronically understaffed, violating residents' contractual and statutory rights. The circuit court certified a class of approximately 489 residents and estates for contract and statutory claims, while excluding medical-malpractice and personal-injury claims. Beverly appealed the certification order, and the Supreme Court of Arkansas affirmed.

DISPOSITION

affirmed

CASES CITED

- Asbury Automotive Group, Inc. v. Palasack, 366 Ark. 601, 237 S.W.3d 462 (2006)
- American Abstract & Title Co. v. Rice, 358 Ark. 1, 186 S.W.3d 705 (2004)
- Dupwe v. Wallace, 355 Ark. 521, 140 S.W.3d 464 (2004)
- Muncrief v. Green, 251 Ark. 580, 473 S.W.2d 907 (1971)
- Cox v. Miller, 363 Ark. 54, 210 S.W.3d 842 (2005)
- USA Check Cashers of Little Rock, Inc. v. Island, 349 Ark. 71, 76 S.W.3d 243 (2002)
- Farmers Insurance Co., Inc. v. Snowden, 366 Ark. 138, 233 S.W.3d 664 (2006)
- Mega Life & Health Insurance Co. v. Jacola, 330 Ark. 261, 954 S.W.2d 898 (1997)
- Van Buren School District v. Jones, 365 Ark. 610, 232 S.W.3d 444 (2006)
- Baker v. Wyeth-Ayerst Laboratories Division, 338 Ark. 242, 992 S.W.2d 797 (1999)
- Taylor v. Taylor, 369 Ark. 31, 250 S.W.3d 232 (2007)
- Kohn v. American Housing Foundation, Inc., 178 F.R.D. 536 (D. Colo. 1998)
- Tay-Tay, Inc. v. Young, 349 Ark. 675, 80 S.W.3d 365 (2002)
- Fleming v. Barnwell Nursing Home & Health Facilities, Inc., 309 A.D.2d 1132, 766 N.Y.S.2d 241 (2003)