

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Gulas v. Infocision Management Corp., 215 W. Va. 225

599 S.E.2d 648 (2004) · No. No. 31673 · Decided June 23, 2004

SUMMARY

The Supreme Court of Appeals of West Virginia held that the denial of class certification was premature because the parties had not conducted limited discovery concerning the requirements of West Virginia Rule of Civil Procedure 23. The court affirmed dismissal of Betty Gulas's individual claims based on res judicata, reversed the denial of leave to substitute Thomas Watson as a putative class representative, and remanded. The court expressed no opinion on whether the class should ultimately be certified or on the merits of the claims concerning employee wage and vacation-pay contracts.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Per Curiam
JURISDICTION	West Virginia
DECIDED	June 23, 2004
DOCKET	No. 31673
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Plaintiff appealed a final order of the Circuit Court of Harrison County that denied class certification, denied leave to amend the complaint to substitute a class representative, and granted defendant's Rule 12(b)(6) motion to dismiss on res judicata grounds.
STANDARD OF REVIEW	Abuse of discretion for an order granting or denying class certification under West Virginia Rule of Civil Procedure 23.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Appeals of West Virginia
PARTIES	Betty Gulas, individually and on behalf of all others similarly situated v. Infocision Management Corporation

TOPICS

class actions

motion to amend

motions to dismiss

discovery dispute

civil procedure

PRACTICE AREAS

civil procedure

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QUESTIONS PRESENTED

1. Whether the circuit court prematurely denied class certification without allowing reasonable discovery concerning the Rule 23 requirements.
2. Whether the circuit court properly dismissed Gulas's individual claims on res judicata grounds after she conceded that she was barred from pursuing them.
3. Whether the circuit court erred in denying the motion to amend the complaint to substitute Thomas Watson as the putative class representative.

HOLDINGS

1. When issues concerning class certification exist and the pleadings and record do not sufficiently establish the presence or absence of the Rule 23 requirements, the circuit court should allow reasonable, limited discovery related to class certification before making an initial determination.
2. The circuit court properly granted Infocision's Rule 12(b)(6) motion as to Gulas because she conceded that res judicata barred her from maintaining the action after previously suing Infocision.
3. The circuit court erred in denying the motion to amend to substitute Thomas Watson as the putative class representative because its ruling rested on the premature conclusion that the action was not amenable to class treatment.

KEY QUOTATIONS

“Where a party seeks to proceed as a class representative under Rule 23 of the West Virginia Rules of Civil Procedure [(1998)], and where issues related to class certification are present, reasonable discovery related to class certification issues is appropriate, particularly where the pleadings and record do not sufficiently indicate the presence or absence of the requisite facts to warrant an initial determination of class action status.” (652)

“When a circuit court is evaluating a motion for class certification under Rule 23 of the West Virginia Rules of Civil Procedure [(1998)], the dispositive question is not whether the plaintiff has stated a cause of action or will prevail on the merits, but rather whether the requirements of Rule 23 have been met.” (652)

FACTUAL BACKGROUND

Infocision operated telemarketing call centers in Huntington and Clarksburg, West Virginia. Gulas alleged that employees received contracts specifying wage and vacation-pay schedules and that Infocision breached those contractual terms. Gulas conceded that her own claims were barred by res judicata, while proposed substitute representatives were offered to pursue class certification.

PROCEDURAL HISTORY

Gulas sued Infocision for alleged breach of employee wage and vacation-pay contracts. While the action was pending, she moved for class certification and conceded that res judicata barred her individual claims; she then sought to substitute Shirley Myer and later Thomas Watson as class representative. The circuit court denied class certification and amendment and dismissed the action. The Supreme Court of Appeals held that class-certification discovery was required, affirmed dismissal as to Gulas, and reversed the denial of amendment to substitute Watson.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for limited discovery concerning whether the action should be certified under Rule 23. Thomas Watson should be substituted as representative of the putative class solely as a party with standing to seek class certification. The dismissal of Gulas's individual claims is affirmed.

CASES CITED

- In re West Virginia Rezulin Litigation, 214 W. Va. 52, 585 S.E.2d 52 (2003)
- Burks v. Wymer, 172 W. Va. 478, 307 S.E.2d 647 (1983)
- Jefferson County Board of Education v. Jefferson County Education Association, 183 W. Va. 15, 393 S.E.2d 653 (1990)
- Love v. Georgia-Pacific Corp., 214 W. Va. 484, 590 S.E.2d 677 (2003)
- Bezanson v. Bayside Enterprises, Inc., 922 F.2d 895, 904 (1st Cir. 1991)
- Andrews v. Daw, 201 F.3d 521, 524 n.1 (4th Cir. 2000)

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