

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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CULLEN COPONEN, JANET COPONEN,  
RICHARD ACKER, CYNTHIA ACKER,  
RONALD W. DANIELS, CYNTHIA DANIELS,  
RONALD L. DENIG, KIMBERLY L. DENIG,  
KEVIN W. DOOR, SARA E. DOOR,  
CHRISTOPHER J. FREEMAN, DIANE L.  
FREEMAN, KIM HOWLAND, JUDY  
HOWLAND, JOHN W. HUMPHREYS,  
CYNTHIA HUMPHREYS, ARLIE KEIRNS,  
LAURIE KEIRNS, DAN KELLY, DEBRA  
KELLY, JEFFREY J. MASKE, JODI A. MASKE,  
ROBERT MATYJESZEK, CAROL  
MATYJASZEK, DARRYL MAZUR, DEBRA A.  
MAZUR, ERIC MCMICHAEL, KATE  
MCMICHAEL, JOHN MILLER, KRISTY  
MILLER, NORMAN RIDER, PAULA RIDER,  
JAMES D. ROGERS, EDWARD SCOTT,  
PATRICIA SCOTT, CHRISTOPHER SCOUTEN,  
ABIGAIL SCOUTEN, DAVID SIEGRIST,  
TAMMY S. SIEGRIST, ROBERT K. SIMMONS,  
MITCHELL UEBRICK, ELIZABETH UEBRICK,  
KENNITH VAN DORIN, LAURA VAN DORIN,  
GARY D. WERTZBAR, LINDA S. WERTZBAR,  
CHRISTOPHER WHITFORD, LAURA  
WHITFORD, GERALD YEOMANS, and LOIS  
A. YEOMANS,

Plaintiffs-Appellees,

and

WILLIAM A. THOMPSON,

Intervening Plaintiff-Appellee,

v

WOLVERINE PIPE LINE COMPANY, INC.,

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Defendant-Appellant.

UNPUBLISHED  
September 30, 2004

No. 235692  
Jackson Circuit Court  
LC No. 00-003227-CE

ON REMAND

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TRINA NEWSOME, DANNY NEWSOME,  
SAMUEL CARON, and TAMMIE CARON,

Plaintiffs-Appellees,

v

WOLVERINE PIPE LINE COMPANY, INC.,

Defendant-Appellant.

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No. 235693  
Jackson Circuit Court  
LC No. 01-003050

ON REMAND

ROBERT MCEWEN, KIM MCEWEN, STACY  
BROWN, GARY BROWN, RICHARD  
KINSTLE, LAURA KINSTLE, and OTHERS  
SIMILARLY SITUATED,

Plaintiffs-Appellees,

v

WOLVERINE PIPE LINE COMPANY, INC.,

Defendant-Appellant.

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No. 235694  
Jackson Circuit Court  
LC No. 01-002294-NO

ON REMAND

BERNARD J. WERNET, CASSANDRA  
GREINER, GEORGE MATTHEWS, and  
COLLEEN MATTHEWS,

Plaintiffs-Appellees,

v

WOLVERINE PIPE LINE COMPANY, INC.,

Defendant-Appellants.

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No. 235695  
Jackson Circuit Court  
LC No. 00-003198-CZ

ON REMAND

Before: Neff, P.J., and Fort Hood and Borrello, JJ.

PER CURIAM.

On remand from the Supreme Court, we again consider defendant's appeal from the circuit court order granting class certification for these actions arising out of the rupture of a gasoline pipeline. We affirm.

On June 7, 2000, a pipeline operated by defendant to transport gasoline between Illinois and Detroit ruptured, releasing petroleum products into the ground, water, and air in Blackman Township. Multiple plaintiffs brought several actions for damages. The trial court granted plaintiffs' motion to certify a class action and it consolidated the cases. The class action included claims for money damages for destruction of personal property, diminution in value to real property, and other economic and noneconomic damages. The court excluded from the case any claims for bodily injury. This Court granted defendant's application for leave to appeal from the certification order. After this Court remanded the matter for further proceedings, the Supreme Court vacated that order and directed this Court to decide the issues for which it granted leave to appeal.

This Court will review a trial court's order of class certification for clear error. *Hamilton v AAA Michigan*, 248 Mich App 535, 541; 639 NW2d 837 (2001). When evaluating a motion for class certification, the trial court is required to accept as true the allegations made in support of the request for certification. The merits of the case are not examined. *Neal v James*, 252 Mich App 12, 15; 651 NW2d 181 (2002).

MCR 3.501(A)(1) provides:

(1) One or more members of a class may sue or be sued as representative parties on behalf of all members in a class action only if:

(a) the class is so numerous that joinder of all members is impracticable;

(b) there are questions of law or fact common to the members of the class that predominate over questions affecting only individual members;

(c) the claims or defenses of the representative parties are typical of the claims or defenses of the class;

(d) the representative parties will fairly and adequately assert and protect the interests of the class; and

(e) the maintenance of the action as a class action will be superior to other available methods of adjudication in promoting the convenient administration of justice.

Accepting as true the allegations made in support of the class certification, we find that the trial court did not err in certifying the class.

In regard to the first factor, the identified class involves approximately 1,200 residents. This Court has held that far fewer members are needed to meet the numerosity requirement. *Grettenberger Pharmacy, Inc v Blue Cross*, 98 Mich App 1, 9; 296 NW2d 589 (1980). The trial

court properly found that the number of persons involved was so large that it would be impractical to bring them before the court. *Id.*

In determining whether common questions of law or fact predominate over individual factors, there is no requirement that all questions necessary for ultimate resolution be common to the members of the class. *Dix v American Bankers Life Assurance Co of Florida*, 429 Mich 410, 416; 415 NW2d 206 (1987). The relevant concern is whether the individual issues are so disparate as to make a class action unmanageable. *Id.*, 419. Although there is likely to be disparity in the damages suffered by the class members, the trial court did not clearly err in finding that common questions of law and fact predominate.

The typicality requirement directs the court to focus on whether the named representatives' claims have the same essential characteristics as the claims of the class at large. *Neal, supra*, 21. The representatives' claims must arise from the same event that gives rise to the claims of the other class members and be based on the same legal theories. *Id.* The representatives and the class members all faced involuntary evacuation of their homes, exposure to gasoline fumes, and environmental risk to their property. The trial court did not clearly err in finding that the claims of the representative parties are typical of those of the class.

All indications show that the representative parties will fairly and adequately assert and protect the interests of the class. Review of this factor involves a two-step inquiry: whether the named plaintiffs' counsels are qualified to sufficiently pursue the putative class action and whether the members of the class have antagonistic or conflicting interests. *Neal, supra*, 22. The trial court found that from its knowledge of the attorneys involved, the representation was adequate. Defendants have not presented any evidence to dispute this finding. While the claims of the class members may vary, there are no identified antagonistic or conflicting interests.

Given the large number of individuals involved and the common factual basis of the claims, the trial court did not clearly err in finding that the maintenance of the action as a class action will be superior to other available methods of adjudication.

Affirmed.

/s/ Janet T. Neff  
/s/ Karen M. Fort Hood  
/s/ Stephen L. Borrello