

STATE OF MICHIGAN
COURT OF APPEALS

GEORGE PROSSER,

Plaintiff,

and

CLIFFORD J. ABBEL, DANIEL ACKER,
WALTER ADAMS, CHARLES DOUGLAS
ALLEN, and HOWARD ANDERSON,

Plaintiffs-Appellants,

v

CONSUMERS POWER COMPANY,

Defendant-Appellee.

UNPUBLISHED

November 12, 1996

No. 174221

LC No. 93-067025-CZ

Before: Michael J. Kelly, P.J., and O'Connell and K.W. Schmidt,* JJ.

PER CURIAM.

Plaintiffs brought this action seeking damages under various theories for injuries sustained as a result of stray voltage allegedly caused by defendant's failure to properly maintain the system that delivered electricity to the various farms owned by plaintiffs. The trial court granted defendant's motion for dismissal for improper joinder. Plaintiffs-appellants appeal as of right. We affirm.

The trial court retained the first named plaintiff (i.e., George Prosser) and dropped the remaining plaintiffs, rejecting their attempt to bring a single class action suit rather than separate individual suits against defendant. In doing so, it gave the remaining plaintiffs the opportunity to re-file their individual cases without prejudice and tolled the statute of limitations for fifty-six days. Such a procedure was in accord with MCR 2.207.

* Circuit judge, sitting on the Court of Appeals by assignment.

Plaintiffs-appellants argue that the trial court abused its discretion in dropping them because their claims arose out of the same transaction or occurrence and had a question of law or fact in common. In addition, they argue that, even if the actions did not arise out of the same transaction or occurrence, it would promote the convenient administration of justice to join all the plaintiffs in one action against defendant. We disagree.

The claims of the various farmers in this case do not arise out of the same transaction or occurrence because they do not arise from the identical events. *Armco Steel v Dep't of Treasury*, 111 Mich App 426; 315 NW2d 158 (1981). The trial court correctly relied on *Bajorek v Kurtz* 335 Mich 58; 55 NW2d 727 (1952). See also *Hardware Dealers Mut Ins Co v R. H. Hidey, Inc*, 349 Mich 490; 490; 84 NW2d 795 (1957). Considering the variety of factors which could have contributed to stray voltage, together with the range of voltage allegedly affecting the farms, jury confusion would result if all two hundred plus plaintiffs presented their individual claims for resolution in a single class action suit. *Kubiak v Hurr*, 143 Mich App 465; 372 NW2d 341 (1985).

Affirmed.

/s/ Michael J. Kelly

/s/ Kenneth W. Schmidt