



KeyCite Yellow Flag - Negative Treatment

Declined to Follow by [Donovan v. Philip Morris USA, Inc.](#), D.Mass., June 24, 2010

425 F.3d 1116

United States Court of Appeals,
Eighth Circuit.

In re: ST. JUDE MEDICAL, INC., Silzone
Heart Valve Products Liability Litigation

Lester Grovatt; Beatrice Bailey; Levy
D. Redden; Bonnie L. Sliger; Joe W.
Sanchez, on behalf of themselves and
all others similarly situated, Appellees,

v.

St. Jude Medical, Inc., Appellant,
[Product Liability Advisory Council](#),
Incorporated; Minnesota Chamber of
Commerce, Amicus on Behalf of Appellant.
State of Minnesota; Public Citizen, Public
Citizen, Incorporated; Minnesota Trial Lawyers
Association, Amicus on Behalf of Appellees.

No. 04–3117.

|
Submitted: June 20, 2005.

|
Filed: Oct. 12, 2005.

Synopsis

Background: Consolidated products liability action was brought against manufacturer of prosthetic heart valves after manufacturer recalled unimplanted valves. The United States District Court for the District of Minnesota, [John R. Tunheim, J.](#), 2004 WL 45504, certified two subclasses, one seeking damages under Minnesota's consumer protection statutes and a medical monitoring subclass. Manufacturer appealed.

Holdings: The Court of Appeals, [Riley](#), Circuit Judge, held that:

[1] district court did not conduct a sufficient conflicts-of-law analysis before certifying class and concluding that Minnesota's consumer protection statutes would apply to class, and

[2] medical monitoring subclass was not appropriate for class certification.

Reversed and remanded.

West Headnotes (10)

[1] Federal Courts

🔑 Class actions

170B Federal Courts
170BXVII Courts of Appeals
170BXVII(K) Scope and Extent of Review
170BXVII(K)2 Standard of Review
170Bk3576 Procedural Matters
170Bk3585 Parties
170Bk3585(3) Class actions
(Formerly 170Bk817)

The Court of Appeals reviews a district court's ruling granting or denying class certification for abuse of discretion.

[15 Cases that cite this headnote](#)

[2] Federal Courts

🔑 Class actions

170B Federal Courts
170BXVII Courts of Appeals
170BXVII(K) Scope and Extent of Review
170BXVII(K)2 Standard of Review
170Bk3576 Procedural Matters
170Bk3585 Parties
170Bk3585(3) Class actions
(Formerly 170Bk817, 170Bk776)

The district court's rulings on issues of law in granting or denying class certification are reviewed de novo, and the court abuses its discretion if it commits an error of law.

[10 Cases that cite this headnote](#)

[3] Federal Courts

🔑 Class actions

170B Federal Courts
170BXVII Courts of Appeals
170BXVII(K) Scope and Extent of Review
170BXVII(K)2 Standard of Review
170Bk3576 Procedural Matters

170Bk3585 Parties
 170Bk3585(3) Class actions
 (Formerly 170Bk776)

Even under the abuse of discretion standard, a district court's rulings on issues of law in granting or denying class certification are reviewed de novo.

8 Cases that cite this headnote

[4] **Federal Civil Procedure**

🔑 Consumers, purchasers, borrowers, and debtors

170A Federal Civil Procedure
 170AII Parties
 170AII(D) Class Actions
 170AII(D)3 Particular Classes Represented
 170Ak182.5 Consumers, purchasers, borrowers, and debtors

District court did not conduct a sufficient conflicts-of-law analysis, which considered the due process and full faith and credit issues presented, before certifying class of over 11,000 recipients of prosthetic heart valves and concluding that Minnesota's consumer protection statutes would apply to class, in consolidated nationwide products liability action against manufacturer of valves; individualized choice-of-law analysis had to be applied to each plaintiff's claim to determine contacts with Minnesota. *U.S.C.A. Const. Art. 4, §§ 1, 5, 14; Fed.Rules Civ.Proc.Rule 23, 28 U.S.C.A.*

53 Cases that cite this headnote

[5] **Action**

🔑 What law governs

13 Action
 13II Nature and Form
 13k17 What law governs

For a State's substantive law to be selected in a constitutionally permissible manner, that State must have a significant contact or significant aggregation of contacts, creating state interests, such that choice of its law is neither arbitrary nor fundamentally unfair. *U.S.C.A. Const. Art. 4, § 1.*

11 Cases that cite this headnote

[6] **Declaratory Judgment**

🔑 Representative or class actions

Federal Civil Procedure

🔑 Consumers, purchasers, borrowers, and debtors

118A Declaratory Judgment
 118AIII Proceedings
 118AIII(C) Parties
 118Ak305 Representative or class actions
 170A Federal Civil Procedure
 170AII Parties
 170AII(D) Class Actions
 170AII(D)3 Particular Classes Represented
 170Ak182.5 Consumers, purchasers, borrowers, and debtors

Medical monitoring subclass in consolidated action against prosthetic heart valve manufacturer was not appropriate for class certification on grounds that manufacturer's conduct warranted final injunctive relief or corresponding declaratory relief with respect to entire subclass; determination of whether each plaintiff who had been implanted with valve would need additional monitoring beyond standard follow-up care depended on individualized issues such as medical history, condition of heart valves at time of implantation, risk factors for complications, and general health. *Fed.Rules Civ.Proc.Rule 23(b)(2), 28 U.S.C.A.*

25 Cases that cite this headnote

[7] **Federal Civil Procedure**

🔑 Common interest in subject matter, questions and relief; damages issues

170A Federal Civil Procedure
 170AII Parties
 170AII(D) Class Actions
 170AII(D)1 In General
 170Ak165 Common interest in subject matter, questions and relief; damages issues

Although rule allowing for class actions requesting injunctive relief contains no predominance or superiority requirements, class claims thereunder still must be cohesive; because unnamed members are bound by the action without the opportunity to opt out of the class, even greater cohesiveness generally is required

than in class actions not seeking injunctive relief.
[Fed.Rules Civ.Proc.Rule 23\(b\)\(2\)](#), 28 U.S.C.A.

[71 Cases that cite this headnote](#)

[8] Federal Civil Procedure

🔑 [Superiority, manageability, and need in general](#)

[170A](#) Federal Civil Procedure

[170AII](#) Parties

[170AII\(D\)](#) Class Actions

[170AII\(D\)1](#) In General

[170Ak161.2](#) Superiority, manageability, and need in general

A suit could become unmanageable and little value would be gained in proceeding as a class action if significant individual issues were to arise consistently. [Fed.Rules Civ.Proc.Rule 23](#), 28 U.S.C.A.

[7 Cases that cite this headnote](#)

[9] Federal Civil Procedure

🔑 [Common interest in subject matter, questions and relief; damages issues](#)

[170A](#) Federal Civil Procedure

[170AII](#) Parties

[170AII\(D\)](#) Class Actions

[170AII\(D\)1](#) In General

[170Ak165](#) Common interest in subject matter, questions and relief; damages issues

A class seeking injunctive relief is distinguished from other class actions by class cohesiveness since the injuries remedied through class injunctive actions are really group, as opposed to individual, injuries; the members of an injunctive class are generally bound together through preexisting or continuing legal relationships or by some significant common trait such as race or gender. [Fed.Rules Civ.Proc.Rule 23\(b\)\(2, 3\)](#), 28 U.S.C.A.

[35 Cases that cite this headnote](#)

[10] Federal Civil Procedure

🔑 [Particular Classes Represented](#)

[170A](#) Federal Civil Procedure

[170AII](#) Parties

[170AII\(D\)](#) Class Actions

[170AII\(D\)3](#) Particular Classes Represented

[170Ak181](#) In general

A district court certifying a medical monitoring class must be satisfied that a reasonable plaintiff, based on a medical and economic calculus, would have sued solely for a medical monitoring program, not merely that a lawyer could have been found who would have located a plaintiff and brought a class action in the hope of a fee. [Fed.Rules Civ.Proc.Rule 23](#), 28 U.S.C.A.

[15 Cases that cite this headnote](#)

Attorneys and Law Firms

*[1117 James C. Martin](#), argued, Los Angeles, CA, for appellant.

[Steven E. Angstreich](#), argued, Cherry Hill, NJ, for appellee.

Before [RILEY](#), [BOWMAN](#), and [BENTON](#), Circuit Judges.

Opinion

[RILEY](#), Circuit Judge.

St. Jude Medical, Inc. (SJM) produced the Silzone [prosthetic heart valve](#). A test conducted by SJM showed a slightly higher risk of paravalvular leaks at the site where the valves were implanted. SJM thereafter recalled all unimplanted Silzone valves. Numerous suits were then filed across the nation, and the cases were later consolidated in Minnesota. On motions by the plaintiffs, the district court issued three orders that collectively had the result of certifying two subclasses—one seeking damages based on Minnesota's consumer protection statutes, and another seeking primarily injunctive relief. SJM appeals these two class certifications. We reverse and remand.

***1118 I. BACKGROUND**

SJM received approval from the Food and Drug Administration (FDA) for the Silzone Heart Valve. The valve had as a unique characteristic a sterile, antimicrobial silver coating on the valve's polyester sewing cuff where the valve connected to a patient's heart tissue. Months after receiving FDA approval, SJM sponsored a random, controlled study comparing patient experience with Silzone- and non-Silzone-coated heart valves. The study data showed a statistically significant 2% increase for patients implanted with Silzone-

coated valves over those implanted with non-Silzone-coated valves in the incidence of paravalvular leaks severe enough to require valve explanation.

SJM immediately recalled all unimplanted Silzone valves. Following the recall, plaintiffs sued SJM in courts across the nation. The cases were consolidated for pretrial proceedings in Minnesota pursuant to the Judicial Panel on Multidistrict Litigation. Eventually, five plaintiffs filed a consolidated amended class action complaint, claiming to represent over 11,000 Silzone valve recipients. The plaintiffs alleged common law strict liability, breach of implied and express warranties, negligence and medical monitoring, and claims under various Minnesota consumer statutes—the False Advertising Act, the Consumer Fraud Act, the Unlawful Trade Practices Act, and the Uniform Deceptive Trade Practices Act. The plaintiffs moved for class certification of an injunctive class, called the “medical monitoring class,” and a personal injury class seeking money damages, although both classes made many of the same claims under the same legal theories noted above. The district court found both proposed classes met the threshold requirements of [Federal Rule of Civil Procedure 23\(a\)](#), then conditionally certified the common-law claims in both classes under [Rule 23\(b\)\(3\) and \(c\)\(4\)](#). The court also conditionally certified the medical monitoring class under [Rule 23\(b\)\(2\) and \(c\)\(4\)](#). Finally, the court concluded common issues of law and fact predominated over plaintiffs' claims under Minnesota's consumer protection and deceptive trade practices acts, and a class action was the superior method to adjudicate those claims. The court unconditionally certified a consumer protection class under those statutes pursuant to [Rule 23\(b\)\(3\)](#).

As to the common law claims, the district court “envison[ed] a minimal number of subclasses, and [found] that only significant variations in state law will be sufficient to require different subclasses,” then requested briefing from the parties with regard to subclasses in the conditionally certified classes. After receiving briefing, the court decertified the personal injury class, citing [Erie Railroad v. Tompkins](#), 304 U.S. 64, 78–80, 58 S.Ct. 817, 82 L.Ed. 1188 (1938), and [Castano v. American Tobacco Co.](#), 84 F.3d 734, 740–41 (5th Cir.1996), wherein the Fifth Circuit reversed a district court's class certification order because the district court failed to consider how the variations in state law would affect predominance and superiority. The district court found no two states' laws were substantially alike, which, in the court's estimation, would require management of at least 25 subclasses. The court again conditionally certified the medical monitoring class,

subject to the plaintiffs submitting to the court the identities of suitable class representatives and a manageable trial plan. After reviewing the laws of different states with regard to medical monitoring, the court observed it would apply the medical monitoring law of different states, conditionally certifying the class only as to “those plaintiffs whose valves were implanted in states that recognize a stand-alone cause of action for medical monitoring, absent proof of injury.” The court concluded the elements of medical *1119 monitoring claims in states that recognize such claims “appear[ed] to be the same.” In a third order, the court added plaintiffs from more states (for a total of 17) to the list of those presenting medical monitoring claims. Following the third order, two certified subclasses remain: the class based on Minnesota's consumer protection statutes, and the medical monitoring class.

II. DISCUSSION

[1] [2] [3] “We review a district court's ruling granting or denying class certification for abuse of discretion.” [Glover v. Standard Fed. Bank](#), 283 F.3d 953, 959 (8th Cir.2002). “The district court's rulings on issues of law are reviewed de novo, and the court abuses its discretion if it commits an error of law.” [Blades v. Monsanto Co.](#), 400 F.3d 562, 566 (8th Cir.2005) (citing [Emery v. Hunt](#), 272 F.3d 1042, 1046 (8th Cir.2001)) (italics removed). “Thus, even under the abuse of discretion standard, a district court's rulings on issues of law are reviewed de novo.” [Emery](#), 272 F.3d at 1046.

To be certified as a class, plaintiffs must meet all of the requirements of [Rule 23\(a\)](#) and must satisfy one of the three subsections of [Rule 23\(b\)](#).¹ [Amchem Prods., Inc. v. Windsor](#), 521 U.S. 591, 614, 117 S.Ct. 2231, 138 L.Ed.2d 689 (1997); [Blades](#), 400 F.3d at 568–69. The [Rule 23\(a\)](#) requirements for class certification are: (1) the putative class is so numerous that it makes joinder of all members impractical; (2) questions of law or fact are common to the class; (3) the class representatives' claims or defenses are typical of the claims or defenses of the class; and (4) the representative parties will fairly and adequately protect the interests of the class. [Fed.R.Civ.P. 23\(a\)](#). The district court certified the class based on Minnesota's consumer protection statutes using [Rule 23\(b\)\(3\)](#), which provides that a class action may be maintained if the court finds the questions of law or fact common to members of the class predominate over the questions affecting only individual class members, and a class action is the superior method for fair and efficient adjudication of the dispute. The district court certified the medical monitoring

class under [Rule 23\(b\)\(2\)](#), which provides a class action is appropriate if “the party opposing the class has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole.”

A. Consumer Protection Class

[4] The district court concluded it would apply Minnesota law to the consumer protection statutes class because the Minnesota statutes permit “any person” to bring suit thereunder. The court conducted a cursory conflict-of-laws analysis as to the application of the Minnesota consumer protection statutes. The court concluded applying Minnesota law was proper because the parties, particularly SJM, had significant contacts with Minnesota, including SJM being headquartered in Minnesota, and the fact that “much of the conduct relevant” to the claims “occurred or emanated from Minnesota.”

SJM makes numerous assertions of error regarding the district court's order certifying the consumer protection class. SJM argues the U.S. Constitution does not permit a nationwide personal injury class action using the consumer protection law of one state to the exclusion of all other states. SJM claims the nationwide class violates the Constitution's Commerce Clause, the Due Process Clause, the Full *1120 Faith and Credit Clause, the *Erie* doctrine, and the Rules Enabling Act. SJM also argues the nationwide consumer protection class violates [Federal Rule of Civil Procedure 23](#), questioning the manageability of the class, the adequacy of the class representatives, and the typicality of their claims. Finally, SJM argues the plaintiffs cannot meet the predominance or superiority requirements of [Rule 23\(b\)\(3\)](#).

Addressing the class certification issues only with regard to the Due Process and Full Faith and Credit Clauses, we conclude the district court did not conduct a sufficient conflicts-of-law analysis. The due process and full faith and credit issues “are dispositive, and we believe it prudent not to decide issues unnecessary to the disposition of the case,” especially given the numerous constitutional issues implicated in such an analysis. See *Georgine v. Amchem Prods., Inc.*, 83 F.3d 610, 623 (3d Cir.1996), *aff'd sub nom., Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 117 S.Ct. 2231, 138 L.Ed.2d 689 (1997).

The district court's class certification was in error because the district court did not conduct a thorough conflicts-of-law

analysis with respect to each plaintiff class member before applying Minnesota law. The Supreme Court has held an individualized choice-of-law analysis must be applied to each plaintiff's claim in a class action. *Phillips Petroleum Co. v. Shutts*, 472 U.S. 797, 822–23, 105 S.Ct. 2965, 86 L.Ed.2d 628 (1985). There is, of course, no constitutional injury to out-of-state plaintiffs in applying Minnesota law unless Minnesota law is in conflict with the other states' laws. Therefore, we must first decide whether any conflicts actually exist. See *id.* at 816, 105 S.Ct. 2965. The district court certified a class of over 11,000 Silzone valve recipients, assumedly residing in numerous states. We deem it unnecessary here to review each state's consumer protection laws, and rather rely on our sister circuit's conclusion that “[s]tate consumer-protection laws vary considerably, and courts must respect these differences rather than apply one state's law to sales in other states with different rules.” *In re Bridgestone/Firestone, Inc.*, 288 F.3d 1012, 1018 (7th Cir.2002).

[5] “[F]or a State's substantive law to be selected in a constitutionally permissible manner, that State must have a significant contact or significant aggregation of contacts, creating state interests, such that choice of its law is neither arbitrary nor fundamentally unfair.” *Allstate Ins. Co. v. Hague*, 449 U.S. 302, 312–13, 101 S.Ct. 633, 66 L.Ed.2d 521 (1981). Here, we cannot determine whether the district court's choice of Minnesota law was arbitrary or unfair, because the court did not analyze the contacts between Minnesota and each plaintiff class member's claims. Application of Minnesota law to all plaintiffs' claims ultimately may be proper, although we suspect Minnesota lacks sufficient contacts with all the parties' claims, and the different states have material variances between their consumer protection laws and Minnesota's. There is no indication out-of-state parties “had any idea that [Minnesota] law could control” potential claims when they received their Silzone-coated valves. *Phillips Petroleum*, 472 U.S. at 822, 105 S.Ct. 2965. Regardless, protection of out-of-state parties' constitutional rights requires an inquiry into their claims' contacts with Minnesota and their individual state laws before concluding Minnesota law may apply.

The district court justified its decision not to conduct a conflicts analysis by relying on [section 8.31 of the Minnesota Statutes](#). This section permits “any person injured by a violation of” Minnesota's consumer protection statutes to bring suit. [Minn.Stat. § 8.31, subd. 3a](#). The court also cited statutory language allowing “[a] *1121 person likely to be damaged by a deceptive trade practice” to seek injunctive

relief. [Minn.Stat. § 325D.45, subd. 1](#). The court reasoned these statutes permit out-of-state plaintiffs to bring suit under Minnesota law, and “[t]he fact that individual plaintiffs hail from other states is immaterial,” relying on [Group Health Plan, Inc. v. Philip Morris Inc.](#), 621 N.W.2d 2 (Minn.2001), and [In re Lutheran Brotherhood Variable Insurance Products Co. Sales Practices Litigation](#), 201 F.R.D. 456, 461 n. 1 (D.Minn.2001). In [Group Health](#), the Minnesota Supreme Court addressed the question whether “a private plaintiff [must] be a purchaser of the defendant's products in order to properly plead a claim under Minnesota's misrepresentation in sales statutes, [Minn.Stat. §§ 325F.67, 325F.69, subd. 1, 325D.13 \(2000\)](#), and [Minn.Stat. § 8.31, subd. 3a \(2000\)](#).” 621 N.W.2d at 4. The plaintiffs were all Minnesota companies, thus the court did not consider the extraterritorial application of the “any person” language contained in the statutes. Instead, the court considered only who had standing to sue under the statutes, i.e., “individual consumers” rather than “sophisticated purchasers.” [Id.](#) at 8–9. [Lutheran Brotherhood](#) cited [Group Health](#) to conclude “any person” meant the Minnesota consumer protection law could be applied to a nationwide class. 201 F.R.D. at 461 n. 1. [Lutheran Brotherhood](#)'s citation to [Group Health](#) was misplaced because [Group Health](#) spoke only to standing rather than extraterritorial application to a nationwide class.

The district court essentially attempted to preempt the Due Process and Full Faith and Credit Clauses with state standing statutes. This opposes basic constitutional law and is error. [See](#) U.S. Const., art. VI, cl. 2; [Brooks v. Howmedica, Inc.](#), 273 F.3d 785, 792 (8th Cir.2001) (“State law which conflicts with federal law is preempted under the Supremacy Clause of the Constitution.”) State consumer protection standing statutes do not extinguish federal constitutional rights or relieve courts from performing the analysis required to safeguard those rights. We therefore conclude the district court should have conducted the proper choice-of-law analysis, [Phillips Petroleum](#), 472 U.S. at 822–23, 105 S.Ct. 2965, and we reverse and remand for that analysis.

B. Medical Monitoring Class

[6] SJM also asserts the district court erred in certifying the medical monitoring class. SJM argues this class defies *Erie*'s command that federal courts refrain from altering or creating new state law. SJM further argues certification of this class as one seeking injunctive relief under [Rule 23\(b\)\(2\)](#) violates the Due Process Clause. Finally, SJM argues certification of this class is improper due to diverse legal and factual issues that would make a classwide trial inefficient and unmanageable.

We conclude the diverse legal and factual issues preclude class certification, and we reverse on this ground. As this ground again is dispositive, we do not address the *Erie* and due process arguments.

[7] [8] [9] Class certification under [Rule 23\(b\)\(2\)](#) is proper only when the primary relief sought is declaratory or injunctive. Although [Rule 23\(b\)\(2\)](#) contains no predominance or superiority requirements, class claims thereunder still must be cohesive. [Barnes v. Am. Tobacco Co.](#), 161 F.3d 127, 143 (3d Cir.1998). Because “unnamed members are bound by the action without the opportunity to opt out” of a [Rule 23\(b\)\(2\)](#) class, even greater cohesiveness generally is required than in a [Rule 23\(b\)\(3\)](#) class. [Id.](#) at 142–43. A “suit could become unmanageable and little value would be gained in proceeding as a class action ... if significant individual issues were to arise consistently.” [Id.](#) (citation and quotation omitted); [see also](#) *1122 [Lemon v. Int'l Union of Operating Engrs](#), 216 F.3d 577, 580 (7th Cir.2000) (same). “At base, the (b)(2) class is distinguished from the (b)(3) class by class cohesiveness Injuries remedied through (b)(2) actions are really group, as opposed to individual injuries. The members of a (b)(2) class are generally bound together through ‘preexisting or continuing legal relationships’ or by some significant common trait such as race or gender.” [Holmes v. Cont'l Can Co.](#), 706 F.2d 1144, 1155 n. 8 (11th Cir.1983) (citation and quotation omitted).

Proposed medical monitoring classes suffer from cohesion difficulties, and numerous courts across the country have denied certification of such classes. [See, e.g., Ball v. Union Carbide Corp.](#), 385 F.3d 713, 727–28 (6th Cir.2004); [Zinser v. Accufix Research Inst., Inc.](#), 253 F.3d 1180, 1195–96, [amended](#), 273 F.3d 1266 (9th Cir.2001); [Barnes](#), 161 F.3d at 143–46; [Boughton v. Cotter Corp.](#), 65 F.3d 823, 827 (10th Cir.1995). Quoting the Third Circuit, the Supreme Court in [Windsor](#) listed some of the individual variations precluding class certification: “[Exposure-only plaintiffs] will also incur different medical expenses because their monitoring and treatment will depend on singular circumstances and individual medical histories.” 521 U.S. at 624, 117 S.Ct. 2231 (quoting [Georgine](#), 83 F.3d at 626). Differences in state laws on medical monitoring further compound these disparities. [See id.](#)

In this case, like in [Windsor](#), each plaintiff's need (or lack of need) for medical monitoring is highly individualized. Every patient in the 17–state class who has ever been implanted with a [mechanical heart valve](#) already requires future medical

monitoring as an ordinary part of his or her follow-up care. A patient who has been implanted with the Silzone valve may or may not require additional monitoring, and whether he or she does is an individualized inquiry depending on that patient's medical history, the condition of the patient's heart valves at the time of implantation, the patient's risk factors for heart valve complications, the patient's general health, the patient's personal choice, and other factors. The plaintiffs concede the states recognizing medical monitoring claims as a separate cause of action have different elements triggering culpability. Simply put, the medical monitoring class presents a myriad of individual issues making class certification improper. For the same reasons the district court decertified the personal injury tort class, the medical monitoring class was certified incorrectly.

[10] Bolstering our conclusion is the fact the plaintiffs never demonstrated to the district court they “would sue for the medical monitoring program sought here even in the absence of a claim for damages.” *In re Rezulin Prods. Liab. Litig.*, 210 F.R.D. 61, 73 (S.D.N.Y.2002). As the Southern District of New York ruled, a district court certifying a medical monitoring class must be satisfied

that a reasonable plaintiff, based on a medical and economic calculus, would have sued solely for a medical monitoring program, not merely that a lawyer could have been found who would have located a plaintiff and brought

a class action in the hope of a fee, else the test would be meaningless.

Plaintiffs have not persuaded the Court that this criterion has been satisfied here. Neither the American Diabetes Association nor the American Association of Clinical Endocrinologists, which promulgate guidelines for the care and treatment of diabetics, nor any public health agency or professional medical society or institution, has recommended special monitoring for patients who formerly took [Rezulin](#).

Id. While every [mechanical heart valve](#) patient will require follow-up care in connection *1123 with the implant, the question of additional monitoring above that required for normal [mechanical heart valve](#) implantation is not clear.

For the above reasons, we conclude class certification of the medical monitoring class was an abuse of discretion. We reverse the district court's certification of this class.

III. CONCLUSION

For the foregoing reasons, we reverse and remand for further proceedings consistent with this opinion.

All Citations

425 F.3d 1116










Footnotes

- 1 [Rule 23](#) was amended in 2003, but those amendments have no bearing on our analysis of this appeal. Class Action Fairness Act of 2005, [Pub.L. 109-2, § 7, 119 Stat. 13](#).

Negative Treatment


Negative Citing References (6)

The KeyCited document has been negatively referenced by the following events or decisions in other litigation or proceedings:



Treatment	Title	Date	Type	Depth	Headnote(s)
Declined to Follow by	 1. Donovan v. Philip Morris USA, Inc. ” MOST NEGATIVE 268 F.R.D. 1 , D.Mass. PRODUCTS LIABILITY - Class Actions. Class certification of smokers' request for medical monitoring was warranted.	June 24, 2010	Case		7 F.3d
Declined to Extend by	2. Lantz v. American Honda Motor Co., Inc. 2007 WL 1424614 , N.D.Ill. Plaintiffs Ron Lantz, Dennis Gribbins, Richard Allen, and Clarence Alvord filed a class action complaint against Defendant American Honda Motor Company, Inc. ("Honda"), alleging...	May 14, 2007	Case		4 F.3d
Distinguished by	 3. Washkoviak v. Student Loan Marketing Ass'n 900 A.2d 168 , D.C. LITIGATION - Dismissal. Motion to dismiss was not converted to motion for summary judgment.	June 08, 2006	Case		4 F.3d
Distinguished by	 4. Rakes v. Life Investors Ins. Co. of America ” 2007 WL 2122195 , N.D.Iowa The matter before the court is Defendant Life Investors Insurance Company of America's Motion to Dismiss ("Motion") (docket no. 38). On July 17, 2006, Plaintiffs Robert Rakes and...	July 20, 2007	Case		4 6 F.3d
Distinguished by	5. Morris v. Davita Healthcare Partners, Inc. 308 F.R.D. 360 , D.Colo. LITIGATION - Class Actions. To have Article III standing in suit seeking class certification based on predominance and superiority, only named plaintiffs must show injury-in-fact.	June 18, 2015	Case		3 F.3d
Distinguished by	6. Pollard v. Remington Arms Company, LLC 320 F.R.D. 198 , W.D.Mo. PRODUCTS LIABILITY - Class Actions. Proposed class settlement was fair and reasonable in consumers' products liability action against rifle manufacturer.	Mar. 14, 2017	Case		4 F.3d

History (35)

Direct History (8)

 1. [In re St. Jude Medical, Inc. Silzone Heart Valves Products Liability Litigation](#)
2003 WL 1589527 , D.Minn. , Mar. 27, 2003


Reversed and Remanded by

 2. [In re St. Jude Medical, Inc.](#) 
425 F.3d 1116 , 8th Cir.(Minn.) , Oct. 12, 2005

On Remand to



 3. [In re St. Jude Medical, Inc.](#)
2006 WL 2943154 , D.Minn. , Oct. 13, 2006

Reversed and Remanded by

 4. [In re St. Jude Medical, Inc.](#)
522 F.3d 836 , 8th Cir.(Minn.) , Apr. 09, 2008 , rehearing and rehearing en banc denied (May 15, 2008)

 5. [In re St. Jude Medical, Inc. Silzone Heart Valves Products Liability Litigation](#)
2004 WL 45504 , D.Minn. , Jan. 05, 2004


Reversed and Remanded by

 6. [In re St. Jude Medical, Inc.](#) 
425 F.3d 1116 , 8th Cir.(Minn.) , Oct. 12, 2005

On Remand to

 7. [In re St. Jude Medical, Inc.](#)
2006 WL 2943154 , D.Minn. , Oct. 13, 2006

Reversed and Remanded by

 8. [In re St. Jude Medical, Inc.](#)
522 F.3d 836 , 8th Cir.(Minn.) , Apr. 09, 2008 , rehearing and rehearing en banc denied (May 15, 2008)

Related References (27)

9. [In re St. Jude Medical, Inc., Silzone Heart Valves Products Liability Litigation](#)
2001 WL 36292052 , Jud.Pan.Mult.Lit. , Apr. 18, 2001

10. [In re St. Jude Medical, Inc., Silzone Heart Valves Products Liability Litigation](#)
2001 WL 1640056 , D.Minn. , Aug. 21, 2001

 11. [In re St. Jude Medical, Inc., Silzone Heart Valves Products Liability Litigation](#)
2001 WL 1640057 , D.Minn. , Oct. 22, 2001

Order Amended by

12. [In re St. Jude Medical, Inc.](#)
2002 WL 441125 , D.Minn. , Mar. 19, 2002

13. [In re St. Jude Medical, Inc.](#)
2001 WL 1663818 , D.Minn. , Nov. 23, 2001

14. [In re St. Jude Medical, Inc.](#)
2002 WL 340829 , D.Minn. , Mar. 01, 2002

15. [In re St. Jude Medical, Inc.](#)
2002 WL 341019 , D.Minn. , Mar. 01, 2002

16. [In re St. Jude Medical, Inc.](#)
2002 WL 341020 , D.Minn. , Mar. 01, 2002

17. [In re St. Jude Medical, Inc.](#)
2002 WL 449751 , D.Minn. , Mar. 22, 2002

 18. [In re St. Jude Medical, Inc.](#)
2002 WL 1050311 , D.Minn. , May 24, 2002

19. [In re St. Jude Medical, Inc.](#)
2002 WL 1377855 , D.Minn. , June 24, 2002

20. [In re St. Jude Medical, Inc., Silzone Heart Valves Products Liability Litigation](#)
2002 WL 1774232 , D.Minn. , Aug. 01, 2002

21. [In re St. Jude Medical, Inc.](#)
2002 WL 31045850 , D.Minn. , Sep. 06, 2002

22. [In re St. Jude Medical, Inc.](#)
2002 WL 31045851 , D.Minn. , Sep. 06, 2002

23. [In re ST. JUDE MEDICAL, INC., Silzone Heart Valves Products Liability Litigation.](#)
2003 WL 22769087 , D.Minn. , Mar. 10, 2003

24. [In re St. Jude Medical, Inc. Silzone Heart Valves Products Liability Litigation](#)
2003 WL 21011306 , D.Minn. , Apr. 04, 2003

25. [In re St. Jude Medical Inc. Silzone Heart Valves Products Liability Litigation](#)
2003 WL 21011318 , D.Minn. , Apr. 07, 2003

26. [In re St. Jude Medical, Inc., Silzone Heart Valves Products Liability Litigation](#)
2003 WL 21011310 , D.Minn. , Apr. 11, 2003


27. [In re St. Jude Medical, Inc.](#)
2003 WL 21347197 , D.Minn. , June 09, 2003

28. [In re St. Jude Medical, Inc.](#)
2003 WL 21524818 , D.Minn. , July 01, 2003

29. [In re St. Jude Medical, Inc., Silzone Heart Valves Products Liability Litigation](#)
2003 WL 22025866 , D.Minn. , Aug. 28, 2003

Order Amended by


30. [In re St. Jude Medical, Inc.](#)
2003 WL 22996913 , D.Minn. , Dec. 18, 2003

 31. [In re St. Jude Medical, Inc. Silzone Heart Valves Products Liability Litigation](#)
2004 WL 45503 , D.Minn. , Jan. 05, 2004

32. [In re St. Jude Medical, Inc. Silzone Heart Valves](#)
2004 WL 1092340 , D.Minn. , Apr. 28, 2004

33. [In re St. Jude Medical, Inc.](#)
2004 WL 1630786 , D.Minn. , July 15, 2004

34. [In re St. Jude Medical, Inc. Silzone Heart Valves Products Liability Litigation](#)
493 F.Supp.2d 1082 , D.Minn. , June 04, 2007

 35. [In re St. Jude Medical Inc. Silzone Heart Valves Products Liability Litigation](#)
2009 WL 1789376 , D.Minn. , June 23, 2009