

217 F.3d 848

Unpublished Disposition

NOTICE: THIS IS AN UNPUBLISHED OPINION.

(The Court's decision is referenced in a "Table of Decisions Without Reported Opinions" appearing in the Federal Reporter. Use FI CTA9 Rule 36-3 for rules regarding the citation of unpublished opinions.)

United States Court of Appeals, Ninth Circuit.

Munique WILLIAMS, individually, and as Class Representative, Michael E. White; April Marie Courie; Johnny Ray Tolbert; Kevin Baxter, individually and as class representatives and in their capacities as taxpayers; Eric Mitchell, Diane Ramires, Heather Yousif, Margo V. Borrup, Ronald J. Borrup, individually and as class representatives; Quinton Cooper; Ruby Sellars; Roy Lee Wimberly, Plaintiffs-Appellants,

v.

Sherman Nmi BLOCK, Sheriff, individually and in his official capacity; Los Angeles County, a governmental entity; Jerry Harper, Undersheriff; Michael Graham, Assistant Sheriff; Berry King, Chief; Does 1 Through 100, individually and in their official capacities, Defendants-Appellees.

No. 98-55609. | D.C. No. CV-97-03826-WJR. | Argued and Submitted Feb. 10, 2000. | Decided May 3, 2000.

Appeal from the United States District Court for the Central District of California, William J. Rea, District Judge, Presiding.

Before PREGERSON, FERGUSON, and WARDLAW, Circuit Judges.

Opinion

MEMORANDUM*

*1 Munique Williams, Michael White, April Marie Courie, Eric Mitchell, Diane Ramirez, Heather Yousif, Margo V. Borrup, Quinton Cooper, and Ruby Sellars appeal the district court's denial of their motion for class certification, pursuant to Federal Rule of Civil Procedure 23. We have jurisdiction under 28 U.S.C. § 1292(b), and we reverse and remand for further proceedings.

The district court denied class certification because it determined that the named plaintiffs' claims were not typical of the proposed class. *See* Fed.R.Civ.P. 23(a)(3). In particular, the district court found that the plaintiffs did not demonstrate typicality because each class representative could not allege each of the plaintiffs' six causes of action. This was a mistake of law. *See Bazemore v. Friday*, 478 U.S. 385, 387, 405-06 (1986) (class met the typicality requirement because each named plaintiff and each proposed class member had a claim against the defendant state agency, even though some proposed class plaintiffs also asserted claims against the different counties in which they resided); *Califano v. Yamasaki*, 442 U.S. 682, 701, 703 n. 15 (1979) (describing class relief as "peculiarly appropriate" when plaintiffs filed claims under two statutory provisions and some named plaintiffs had a cause of action under one of the statutory provisions but not the other); *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1020 (9th Cir.1998) ("Under [Federal Rule of Civil Procedure 23(a)(3)]'s permissive standards, representative claims are 'typical' if they are reasonably co-extensive with those of absent class members; they need not be identical."). Therefore, the district court abused its discretion by failing to certify the class on this ground. *See Koon v. United States*, 518 U.S. 81, 100 (1996) ("A district court by definition abuses its discretion when it makes an error of law.").

The appellees argue in the alternative that we "should affirm the district court's order denying class certification" because "[t]he record amply supports the district court's order [on the grounds that] plaintiffs' proposed class action satisfies neither the predomina[n]ce nor superiority requirements under Rule 23(b)(3)." We have held, however, that "to determine in the first instance whether or not existence of a ground [for denial of class action status] is to be found in the record" would involve this court "with subsidiary questions requiring resolution of factual disputes or exercise of discretion, judicial actions which are not appropriately a part of the appellate function." *Inda v. United Air Lines, Inc.*, 565 F.2d 554, 563 (9th Cir.1977). Therefore, we remand to the district court so that it may consider the requirements for class certification that it did not address in the first instance.

Accordingly, we reverse the district court's judgment and remand for further proceedings.

REVERSED and REMANDED.

Parallel Citations

2000 WL 538037 (Table)

Footnotes

- * This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.