



May 10, 2023

**SIXTH CIRCUIT ISSUES IMPORTANT DECISION REINFORCING STRICT
ARTICLE III STANDING REQUIREMENTS FOR CLASS ACTIONS**

To Our Clients and Friends:

Last month, the Sixth Circuit sided with the Second Circuit in refusing to recognize the “juridical link” doctrine in class action litigation. *See Fox v. Saginaw County*, Case No. 22-1265-1272, 2023 U.S. App. LEXIS 10405, __ F.4th __ (6th Cir. Apr. 28, 2023). This important decision closes the door to an argument some class plaintiffs have made in an effort to assert claims against multiple defendants in a single action.

The “juridical link” doctrine is a relatively new standing doctrine applied by the Seventh Circuit and few other courts. Cases applying the doctrine allow a named plaintiff to sidestep strict compliance with Article III standing requirements and to sue defendants that have not harmed the plaintiff so long as the defendants have harmed *some* absent class member. A named plaintiff can therefore sue multiple defendants, regardless of whether each defendant harmed the named plaintiff, so long as each defendant’s conduct was “linked.”

Fox involved claims arising under a Michigan law that allows counties to obtain complete ownership of a property during a tax foreclosure, even if the value of the property far exceeds the taxes owed. The named plaintiff—who had been injured by only one county—filed suit against twenty-seven counties, arguing that he had standing to bring claims against all of them under the “juridical link” doctrine.

A unanimous Sixth Circuit rejected the argument and held that named plaintiffs must establish an individual injury that is traceable to *each* defendant. Because the plaintiff in *Fox* could trace his injury to only one county, he lacked standing to assert claims against the other counties. As the Sixth Circuit explained, “a plaintiff’s standing to sue one defendant does not give the plaintiff standing to sue every other defendant. The plaintiff must tie the injury to each defendant.” *Fox*, 2023 U.S. App. LEXIS 10405, at *15.

“All told, Fox’s suit conflicts with the Supreme Court’s standing cases in the class-action context. And he offers no historical support for it. He thus may not pursue this class action.”

- Judge Eric E. Murphy, writing for a unanimous Sixth Circuit

Fox continues the trend of appellate court decisions closely scrutinizing standing in class action lawsuits, *see, e.g., TransUnion LLC v. Ramirez*, 141 S. Ct. 2190 (2021), and reminds bench and bar that “a class-action request ‘adds nothing’ to a plaintiff’s standing,” *Fox*, 2023 U.S. App. LEXIS 10405, at *17 (quoting *Simon v. E. Ky. Welfare Rts. Org.*, 426 U.S. 16, 40 n.20 (1976)). The decision will be useful to companies defending against broad, scattershot class action pleadings involving multiple defendants.



**KLEIN THOMAS
LEE & FRESARD**

Fox also will be useful in cases where named plaintiffs seek to represent purchasers of a wide variety of products or model years. For example, if a plaintiff “lacks standing to challenge” conduct that “did not affect him,” *Fox*, 2023 U.S. App. LEXIS 10405, at *18, a plaintiff who purchased a 2017 model X widget would lack standing to bring claims based on a 2018 model Y widget, as the later widget caused him no harm.

Although the holding of *Fox* might appear to be narrow—*i.e.*, rejecting the “juridical link” doctrine—it sends a strong message from a unanimous Sixth Circuit: Article III standing rules are strict, must be taken seriously, and cannot be expanded for the sake of expediency or convenience. Class actions are no exception.

* * *

Our lawyers are happy to address any questions you might have regarding this legal development. Please feel free to contact the KTLF lawyers with whom you usually work or the following authors:

Brandon L. Boxler (Richmond, Virginia): brandon.boxler@kleinthomaslaw.com

Ian K. Edwards (Troy, Michigan): ian.edwards@kleinthomaslaw.com