

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY

NANCY WHEELER	)	
	)	
Counterclaim Plaintiff,	)	
v.	)	Case. No.: 2416-CV25478
	)	
GAIL MCCANN BEATTY,	)	Division: 60
ASSESSOR, JACKSON COUNTY,	)	
MISSOURI, et al.,	)	
	)	
Counterclaim Defendants.	)	

ORDER CERTIFYING CLASS

NOW on this 1st day of April, 2026, the Court takes up Counterclaim Plaintiff Nancy Wheeler’s Motion for Class Certification. The Counterclaim Plaintiff asks that the Court certify the following class:

All owners of residential real property in Jackson County, Missouri who paid real property taxes based on a 2023 assessed valuation that increased by more than fifteen percent (15%) over the prior assessment cycle, excluding increases due solely to new construction or improvements.

The Court having reviewed the pleadings and briefs of the parties as well as the oral arguments made on behalf of the parties by counsel, and having considered the requirements of Mo. R. Ct. 52.08 and applicable case law now finds as follows:

Standard of Review

Class certification “is a procedural matter in which the sole issue is whether plaintiff has met the requirements for a class action.” *Meyer, ex rel Coplin v. Fluor Corp.*, 220 S.W.3d 712, 15 (Mo. 2007). The party seeking class certification bears the burden of proof. *Hope v. Nissan North America, Inc.*, 353 S.W. 3d 68, 74 (Mo. App. 2011). “Thus, the trial court has no authority to conduct a preliminary inquiry into whether the plaintiff has stated a cause of action or will prevail on the merits.” *Id.* “Although the class

certification decision lies in the circuit court's discretion the courts should err in close cases in favor of certification because the class can be modified as the case progresses.” *Id.* “The issue is not whether the plaintiff has stated a cause of action or will prevail on the merits, but rather whether plaintiff has met the requirements for a class action.” *Craft v. Philip Morris Cos.*, 190 S.W.3d 368, 377 (Mo.App.E.D.2005) “While some evidence relating to the merits may be considered in determining whether the class certification prerequisites have been met, the court must look only so far as to determine whether, given the factual setting of the case, if the plaintiff’s general allegations are true, common evidence could suffice to make out a prima facie case for the class.” *Hale v. Wal-Mart Stores, Inc.*, 231 S.W.3d 215, 222 (Mo. App. 2007).

There are four prerequisites for class certification. The record must demonstrate that: (1) the class is so numerous that joinder of all members is impractical ((numerosity); (2) there are questions of law or fact that are common to the class (commonality); (3) the claims of the representative parties are typical of the class claims (Typicality) and (4) the representative parties will fairly and adequately protect the class interests (adequacy). *See* Rule 52.08(a). If the 52.08(a) prerequisites are met, the putative class must also satisfy one of the three requirements of Rule 52.08(b). *See* Rule 52.08(b). Additionally, the certified class must meet two additional requirements: It must be capable of legal definition and the representative parties must be members of the putative class. *Hale*, 231 S.W. 3d at 222.

Numerosity: “A class action is to be used where it is not feasible for all persons whose interests may be affected by an action to be made parties to it.” *Elsea v. U.S. Engineering Company*, 463 S.W. 3d 409, 418 (Mo. App. 2015). The rule does not require that joinder of all the members of a class be impossible, only that it be impracticable. *Dale*

v. Daimler Chrysler Corp., 204 S.W. 3d 151, 164 (Mo. App. 2006) To support a finding of the numerosity prerequisite, the trial court can accept “common sense assumptions.” *Id.* The Court has received evidence that in 2023, there were approximately 300, 000 parcels in Jackson County. The 2023 biennial assessment resulted in increased valuations of approximately 238,000 parcels. Of those 238,000 parcels, approximately 200,000 received increases over 15%. Under Rule 52.08(a)(1), the Court finds that the proposed Class is so numerous that joinder of all members is impracticable, in that there are approximately 200,000 class members. Numerosity is met in this case.

Commonality: Rule 52.08(a)(2) requires commonality as to questions of law or fact common to the class. *See* 52.08(a)(2). The rule does not require commonality as to all questions but rather only that common questions exist. *E/sea*, 463 S.W. 3d at 419. Here, the Court finds that there are questions of law or fact common to the proposed Class, including but not limited to: whether Counterclaim Defendants violated Article X, Section 22(a) of the Missouri Constitution (the “Hancock Amendment”); whether the Class is due refunds of taxes mistakenly or erroneously paid pursuant to § 137.073; whether Counterclaim Defendants breached ministerial duties; whether the Class is entitled to negligence damages; and whether Defendants waived sovereign immunity. Moreover, and as shown by the evidence presented at trial in this matter between Counterclaim Defendants and the State Tax Commission, the same Reassessment practices and policies were applied to all members of the Class in a uniform manner, just as the State Tax Commission’s Order applies to all members of the Class in a uniform manner. The Court further finds that the central liability questions concerning the legality of the 2023 reassessment process and the resulting taxation have already been adjudicated on a

uniform basis and are common to all class members. The commonality prerequisite is satisfied.

Typicality: Under Rule 52.08(a)(3), the Court must find that the claims or defenses of the representative parties are typical of the claims or defenses of the class. *See* 52.08(a)(3). Typicality means that the class members share the same interest and suffer the same injury. *Hale*, 231 S.W. 3d at 223. This requirement is met

even where there is a variance in the underlying facts of the representative's claim and the putative class members' claims, so long as the claim arises from the same event or course of conduct of the defendant as the class claim, the underlying facts are not markedly different and the conduct and facts give rise to the same legal or remedial theory.

Dale, 204 S.W. ed at 170-71.

Ms. Wheeler alleges that she, like all Class members, was a Jackson County taxpayer who paid taxes on a 2023 assessed valuation that increased by more than fifteen percent over the prior assessment cycle, excluding increases for improvements or new construction, and was subjected to the same actions by the Defendants as all other Class members. Further, Ms. Wheeler is seeking the same relief for herself as she seeks for all other Class members, and her claims are based on the same legal theories as those of all other Class members. The Court finds that the requirement of typicality is met.

Adequacy: Due process requires that absent class members be fairly and adequately represented. *Dale*, 204 S.W. 3d at 172. The adequacy requirement applies both to the named class representatives and to class counsel. *Id.* The Court must consider whether the named representative has or may have any conflicts of interest that would adversely affect the interests of the class. *Vandyne v. Allied Mort. Capital Corp.*, 242 S.W. 3d 695, 698 (Mo. banc 2008). The interests of the class representative must be

compatible, not antagonistic to the class and possess the same interests and same injury as class members. *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 625-26 (1997). First, the Court finds that the proposed named representative, Ms. Wheeler, is represented by experienced litigation attorneys who have class action litigation. The Court has no doubt that the proposed class attorneys will represent the class professionally, diligently and expertly. Secondly, the Court finds that there appear to be no interests of Ms. Wheeler that are antagonistic to the interests of the class or would adversely affect the class. The Court finds that requirement as to adequacy is satisfied.

Whereas the Court has found the prerequisites of Rule 52.08(a), the Court must also look to the requirements under Rule 58.02(b) to see if certification is appropriate. Counterclaim Plaintiffs argue that certification is appropriate under both Rule 52.08(b)(2) and Rule 52.08(b)(3). Rule 52.08(b) provides that “the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole.” Based upon the claims alleged in the Amended Counterclaim, the Court finds that class certification would be appropriate for purposes of the declaratory and injunctive relief under Rule 52.08(b)(2). A finding as to the lawfulness of Defendants’ conduct and whether the Class is entitled to injunctive or declaratory relief will be the same for all members of the Class.

Rule 58.02(b)(3) provides that the questions of law or fact common to class members predominate over any questions affecting only individual members, and that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy. and to the extent the Class seeks monetary relief in the form of

statutory refunds and negligence damages, the Court further certifies the class under Rule 52.08(b)(3).

With respect to Rule 52.08(b)(3), an action may be maintained as a class if “the court finds that the questions of law or fact common to class members predominate over any questions affecting only individual members, and that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy. “The superiority requirement requires the trial court to balance, in terms of fairness and efficiency, the merits of a class action in resolving the controversy against those of alternative available methods of adjudication.” *Dale*, 204 S.W.3d at 181 “The balancing must be in keeping with judicial integrity, convenience, and economy.” *Id.* “Class actions which aggregate small claims that could not otherwise be brought are exactly the type of claims that satisfy the superiority requirement.” *Hale*, 231 S.W.3d at 229. In balancing the relative merits of class action versus alternative methods of adjudicating the controversy, courts should consider “the inability of the poor or uninformed to enforce their rights, and the improbability that large numbers of class members would possess the initiative to litigate individually.” *Dale*, 204 S.W.3d at 182. The Court has further looked to the considerations set forth in the Rule including (A) the class members' interests in individually controlling the prosecution or defense of separate actions; (B) the extent and nature of any litigation concerning the controversy already begun by or against class members; (C) the desirability or undesirability of concentrating the litigation of the claims in the particular forum; and (D) the likely difficulties in managing a class action.” Rule 52.08(b)(3).

The primary questions to be answered in this case include whether Counterclaim Defendants' increases in assessed values resulted in a violation of Article X, Section 22(a) of the Missouri Constitution; whether the Class is entitled to refunds of taxes mistakenly or erroneously paid; whether Defendants should be compelled to obey the State Tax Commission's August 6, 2024 Order; and whether Defendants waived sovereign immunity by acquiring insurance. The Court finds that questions of law predominate over any individual questions that may be present. The individual differences among class members as to the calculation of tax refunds may be determined through tax and assessment records and do not defeat predominance.

Rather than a multiplicity of lawsuits by Jackson County taxpayers, which would further dilute the resources of the parties involved and the courts of this State, this case can best be resolved on a class-wide basis, and therefore, the class procedure is superior to other available methods for the fair and efficient adjudication of the controversy.

Since the common questions predominate in this case and the relief requested for all Class members is the same, it is unlikely that Class members would have interest in individually controlling their own separate litigation of these same issues. This supports the superiority of the class procedure.

Based on the claims at issue, most of which appear to be based on the State Tax Commission's August 6, 2024 Order and this Court's prior Judgment, the Court finds that this case does not present insurmountable management difficulties. This further supports the superiority of the class procedure. The Court finds that a class action is superior to individual actions, which would be inefficient and risk inconsistent results.

The Court finds certification is appropriate under Rule 52.08(b)(3).

IT IS THEREFORE ORDERED THAT THE following Class is hereby certified:

All owners of residential real property in Jackson County, Missouri who paid real property taxes based on a 2023 assessed valuation that increased by more than fifteen percent (15%) over the prior assessment cycle, excluding increases due solely to new construction or improvements.

Excluded from the Class are Defendants, including their officers and legislators, counsel for the parties, including their staff and immediate family members, and the judicial officers assigned to this litigation, including staff and immediate family members.

IT IS FURTHER ORDERED THAT Counterclaim Plaintiff Nancy Wheeler is hereby appointed as representative of the Class, and Counterclaim Plaintiff's counsel, Kenneth B. McClain, Jonathan M. Soper, and Nichelle L. Oxley, are hereby appointed as Class Counsel.

IT IS FURTHER ORDERED THAT the Counterclaim Plaintiff shall submit to the Court with a copy to opposing counsel at the scheduled case management conference on April 6, 2026, a proposed notice to the Class and the proposed notice procedure, including the assertion of proposed Class members.



April 2, 2026

Date

Honorable Jacqueline Cook, Senior Judge