Summary of SC98517, *Elizabeth Butala, et al. v. The Curators of the University of Missouri*
Appeal from the Boone County circuit court, Judge J. Hasbrouck Jacobs
Argued and submitted October 6, 2020; opinion issued April 6, 2021

Attorneys: The patients were represented by Edward D. Robertson III, Kelly C. Frickleton, James P. Frickleton and Michelle L. Marvel of Bartimus Frickleton Robertson Rader PC in Leawood, Kansas, (913) 266-2300; and Todd N. Hendrickson of Hendrickson Law in Kirkwood, (314) 721-8833. The curators were represented by Darci F. Madden, Jeffrey S. Russell and Jonathan B. Potts of Bryan Cave Leighton Paisner LLP in St. Louis, (314) 259-2000; Robert M. Thompson of Bryan Cave Leighton Paisner LLP in Kansas City, (816) 374-3200; and John L. Roark and Beth Findley of Smith Lewis LLP in Columbia, (573) 443-3141.

This summary is not part of the opinion of the Court. It is provided by communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: Patients appeal from judgments in eight separate cases dismissing all counts alleged against a university board of curators following unsuccessful knee surgeries at one of the university's medical centers. In a unanimous per curiam decision that cannot be attributed to any particular judge, the Supreme Court of Missouri retransfers the case to the court of appeals for consideration of the merits of the patients' appeals. Because the circuit court's judgments resolved all legal issues and disposed of all remedies sought against the curators, they were judgments that became final for purposes of appeal when certified under Rule 74.01(b), and the circuit court did not abuse its discretion in certifying the judgments.

Facts: In eight separate lawsuits, patients from the Mizzou BioJoint Center sued individual doctors and the University of Missouri's board of curators. The patients all had undergone surgeries to repair knee injuries using the center's procedure but alleged the surgeries failed and the defendants misrepresented the risks and efficacy of the surgery. The curators moved to dismiss all counts alleged against them, alleging they were protected by sovereign immunity. The circuit court sustained the motions to dismiss and certified the judgments as final for purposes of appeal pursuant to Rule 74.0(b). The patients appealed, and their cases were consolidated. The court of appeals dismissed the appeals for lack of jurisdiction, finding the judgments were not eligible for certification under Rule 74.01(b). This Court granted transfer.

CAUSE RETRANSFERRED.

Court en banc holds: (1) The circuit court's judgments dismissing the counts against the curators were judgments that became final for purposes of appeal when it certified them under Rule 74.01(b). In each of the cases, the circuit court dismissed the curators from the case, resolving all legal issues and leaving open no remedies in all counts against the curators. A judgment disposing of all issues and remedies against at least one party per se disposes of a "judicial unit" and is a final judgment under section 512.020, RSMo, without regard to whether the issues and remedies that remain arise from a distinct transaction or occurrence.

(2) The circuit court did not abuse its discretion in certifying the judgments as final for purposes of appeal. Certification of the judgments for the curators created some risk of unfair prejudice to some parties (including the curators), but the particular circumstances of the cases ensure these risks are as limited as they can be. Accordingly, although reasonable minds could differ as to whether the judgments in this case should have been certified as final under Rule 74.01(b), there was no abuse of discretion.