

Colorado Supreme Court tightens Rule 23 class certification standards

News

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In a series of four cases issued on October 31, 2011, the Colorado Supreme Court issued four decisions addressing Colorado law on the Rule 23 class certification standards. In the lead case, *Jackson v. Unocal Corp.*, the majority ruled that the trial court must conduct a “rigorous analysis” of the Rule 23 standards. It also ruled that the trial court must only find “to its satisfaction” that the elements of the Rule have been met, rejecting the preponderance of the evidence standard adopted by the Colorado Court of Appeals and many other appellate courts. Justice Eid dissented, stating that the majority’s ruling grants broad discretion to the trial court and will make appellate review of class certification decisions virtually impossible. Because the majority did not preclude trial courts from applying a preponderance of the evidence standard, however, and did not even recommend any other standard for trial courts to apply, the majority opinion still seems to allow trial courts to apply that standard in deciding whether to find to their satisfaction that the elements of Rule 23 have been met.

