

SUPREME COURT OF WISCONSIN

CASE No.: 2014AP775

COMPLETE TITLE: Yasmine Clark a Minor, by her Guardian ad Litem,
Susan M. Gramling,
Plaintiff-Respondent,
v.
American Cyanamid Company, Armstrong Containers.
Inc., E.I. Dupont De Nemours and Company,
Atlantic Richfield Company and The Sherwin-
Williams Company,
Defendants-Appellants,
Milwaukee County Department of Health and Human
Services and NL Industries, Inc.,
Defendants.

ON CERTIFICATION FROM THE COURT OF APPEALS

OPINION FILED: April 15, 2016
SUBMITTED ON BRIEFS:
ORAL ARGUMENT: April 5, 2016

SOURCE OF APPEAL:
COURT: Circuit
COUNTY: Milwaukee
JUDGE: David A. Hansher

JUSTICES:
CONCURRED:
DISSENTED:
NOT PARTICIPATING: BRADLEY, R. G., J. did not participate.

ATTORNEYS:
For the defendants-appellants, there were briefs by *Jeffrey K. Spoerk, James E. Goldschmidt and Quarles & Brady LLP, Milwaukee, and Leon F. DeJulius, Jr., Charles H. Moellenberg, Jr. and Jones Day, Pittsburgh, PA.* Oral argument by *Leon F. DeJulius, Jr.*

For the plaintiff-respondent, there was a brief by *Peter G. Earle and the Law Office of Peter Earle, LLC, Milwaukee and Jonathan Orent, Fidelma Fitzpatrick and Motely Rice, LLC,*

Providence, RI, and oral argument by *Peter G. Earle* and *Fidelma Fitzpatrick*.

There was an amicus curiae brief by *Brad Schimel*, attorney general, *Misha Tseytlin*, solicitor general, *Luke N. Berg*, deputy solicitor general and *Amy C. Miller*, staff attorney, and the Wisconsin Department of Justice. Oral Argument by *Luke N. Berg* for the defendants-appellants.

NOTICE

This opinion is subject to further editing and modification. The final version will appear in the bound volume of the official reports.

No. 2014AP775
(L.C. No. 2006CV012653)

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FILED

APR 15, 2016

Diane M. Fremgen
Clerk of Supreme Court

APPEAL from an order of the Circuit Court for Milwaukee County, David. A. Hansher, Judge. *Order granting certification vacated and cause remanded to the Court of Appeals.*

¶1 PER CURIAM. The court is equally divided on whether to affirm or reverse the decision of the circuit court for

Milwaukee County. Chief Justice Patience Drake Roggensack, Justice Shirley S. Abrahamson, and Justice Ann Walsh Bradley would affirm. Justice David T. Prosser, Justice Annette Kingsland Ziegler, and Justice Michael J. Gableman would reverse. Justice Rebecca G. Bradley did not participate.

¶2 This court accepted jurisdiction over this appeal upon certification by the court of appeals. Wis. Stat. § 809.61 (2013-14) ("The supreme court may take jurisdiction of an appeal or other proceeding in the court of appeals upon certification by the court of appeals or upon the supreme court's own motion."). We have often stated that when a tie vote occurs in this court on a bypass or certification, "justice is better served in such an instance by remanding to the court of appeals for their consideration." New Richmond News v. City of New Richmond, 2015 WI 106, ¶2, 365 Wis. 2d 610, 875 N.W.2d 107 (per curiam) (quoting State v. Richard Knutson, Inc., 191 Wis. 2d 395, 396-97, 528 N.W.2d 430 (1995) (per curiam) (remanding to court of appeals on a tie vote on certification)).

¶3 Accordingly, we vacate our order granting certification and remand to the court of appeals.

By the Court.—The order granting certification is vacated and the cause is remanded to the court of appeals.

¶4 REBECCA G. BRADLEY, J., did not participate.

