

SUPREME COURT OF LOUISIANA

No. 99-CC-2322

JOHN M. DUHE ET AL.

Versus

TEXACO, INC. ET AL.

PER CURIAM*

Application granted.

The court of appeal erred in peremptorily reversing the trial court's order granting plaintiffs' motion to disseminate class notices during the pendency of defendant's suspensive appeal from a judgment certifying the class. The court of appeal reasoned that if class notices are disseminated before the appeal is decided, the "suspensive appeal would afford no relief to the defendant from having to incur these costs in a class action." However, plaintiffs have been ordered to pay these costs at this point, and defendant will never be faced with payment of these costs unless it loses its suspensive appeal (in which event notices would ordinarily be disseminated) and fails to prevail on the merits of the class action (in which event it would be cast with these costs, regardless of when the notices were disseminated). The trial court properly observed that there is no showing of irreparable harm from disseminating the notices at this time.

Perhaps more significantly, while notices ordinarily would not be disseminated until and unless the judgment certifying the class is affirmed on appeal, plaintiffs have shown a reasonable basis for deviating from the normal procedure. Because a national class action is proceeding in another state, it is important that putative class members

*Marcus, J., not on panel. Rule IV, Part 2, §3.

in Louisiana be notified of the class action pending in this state in order that they may make an informed choice between their options regarding the national class action and this class action.

Accordingly, the ruling of the court of appeal is set aside, and the ruling of the trial court is reinstated.