The Supreme Court of Ohio Clarifies Statutory Standing and Retroactive Remedies

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Recently, the Supreme Court of Ohio decided a case addressing two issues that have important implications for litigants. The first issue involves statutory standing under Ohio law. The second involves the propriety of retroactive remedies. How the near-unanimous court dealt with both may be surprising to some.

In *Voss v. Quicken Loans, L.L.C.*, the plaintiff Voss alleged that mortgage lender Quicken Loans failed to timely record a release of mortgage as required by statute.[1] Under the statute, such a failure entitles a borrower to $250 in statutory damages, even when no harm has occurred.[2]

Eventually, Voss sought to turn his claim into a class action, which both the trial court and court of appeals permitted.[3] But, there were two wrinkles. First, did Voss even have standing? Voss had not actually been harmed, and one of the touchstone requirements of standing is injury.[4] Second, the alleged statutory violations occurred in 2020, during the global COVID-19 pandemic.[5] Procedurally, this made things complicated.

See, at the time Voss filed his claim, and at the time the trial court certified his class, the statute Voss relied on did not include a prohibition on class actions.[6] Meanwhile, legislation was pending that would amend the statute to prohibit class actions against mortgage lenders for 2020 claims.[7] That amendment became effective *after* the trial court certified the class and *before* the court of appeals considered the case.[8] So, two questions arose. Because the amendment applied retroactively, was it constitutional? And was it proper for the lower courts to apply the pre-amendment version of the statute?

The Supreme Court started with standing. Although Voss suffered no actual harm, the Court held that he sustained a legal injury—Quicken Loans' failure to comply with its statutory duty.[9] In reaching that conclusion, the Court, acting as a true laboratory of democracy,[10]

declined to walk in lockstep with federal standing doctrine.[11] Instead, it looked to longstanding Ohio common-law principles recognizing that certain actions could proceed upon proof of a legal injury alone, without particularized harm.[12]

The Court then turned to retroactivity. It concluded the amendment barring class actions was remedial and therefore constitutional despite its retroactive application.[13] The more interesting holding concerned which version of the statute applied. The Supreme Court held that the lower courts erred in relying on the pre-amendment version, that is, the one in effect when Voss filed suit and when the trial court certified the class.[14]

Each court below erred for different reasons. Start with the court of appeals. When the case made it to that court, the amended statute was in effect.[15] The Supreme Court explained that because the amended statute was remedial in nature, the court of appeals should have applied that version, the version in effect during the appellate proceedings.[16]

As for the trial court, the Supreme Court concluded it erred by applying the pre-amendment version of the statute.[17] It explained that the trial court should have considered the imminent applicability of the amendment and whether a class action would remain a "superior method" of adjudication in light of that change.[18] Because a prohibition on class actions for the claim at issue was imminent, a class action, at that time, did not justify expending judicial time and energy.[19]

Therefore, *Voss* provides two major takeaways. First, when the General Assembly imposes a legal duty by statute and authorizes a remedy for its breach, a plaintiff may be able to pursue that claim without demonstrating actual injury. Second, litigation unfolds against a shifting statutory backdrop. Courts and litigants alike should remain attentive to legislative developments because changes in law can reshape a case, even after it is underway.

[1] 2026-Ohio-531, ¶¶ 5-6.

[2] R.C. 5301.36(B), (C).

[3] *Voss* at ¶ 6.

[4] *See ProgressOhio.org, Inc. v. JobsOhio*, 2014-Ohio-2382, ¶ 7; *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-561 (1992). Indeed, a couple of years ago the Supreme Court of Ohio emphasized the importance of the traditional standing requirements when it overruled "public rights" standing. *See State ex rel. Martens v. Findlay Mun. Ct.*, 2024-Ohio-5667, ¶¶ 2-3 (overruling *State ex rel. Ohio Academy of Trial Lawyers v. Sheward*, 86 Ohio St.3d 451 (1999)). Even so, standing requirements may vary based on the type of case brought. *See State ex rel. Hills & Dales v. Plain Local Sch. Dist. Bd. of Educ.*, 2019-Ohio-5160, ¶ 9 (explaining that a relator (*i.e.*, plaintiff) must be "beneficially interested" to have standing in a mandamus case).

[5] *Voss* at ¶¶ 5, 37.

[6] *Id.* at ¶ 8; *see* former R.C. 5301.36(c), 2014 Am.Sub.H.B. No. 201.

[7] *Voss* at ¶ 2.

[8] *Id.*; *see* R.C.5301.36(C)(2).

[9] *Voss* at ¶ 16.

[10] *See* Sutton, *Who Decides? States as Laboratories of Constitutional Experimentation* 1 (2021) ("For too long, American law has taken a one-sided view of [important constitutional questions], focusing on the US Constitution's answers to these questions and rarely considering, sometimes not considering at all, our fifty state constitutions' answers to them.").

[11] *Voss* at ¶ 14. The Court has recently emphasized the dangers of lockstepping. *See State ex rel. Cincinnati Enquirer v. Bloom*, 2024-Ohio-5029, ¶¶ 21-25.

[12] *Voss* at ¶¶ 15-16.

[13] *Id.* at ¶¶ 22-23.

[14] *Id.* at ¶¶ 25-26.

[15] *Id.* at ¶ 25,

[16] *Id.*

[17] *Id.* at ¶ 26.

[18] *Id.*, citing Civ.R. 23(B)(3)(d).

[19] *Voss* at ¶ 26. There was a lone partial dissent to this opinion authored by assigned Judge Jill Flagg Lanzinger. *See id.* at ¶¶ 35-41 (Lanzinger, J., concurring in part and dissenting in part). Judge Lanzinger contends that the amendment to R.C. 5301.36 prohibiting class actions is inconsistent with the civil rules and therefore is of no force and effect. *Id.* at ¶¶ 39-40.