

February 26, 2004

Charles R. Fulbruge III
Clerk

**UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT**

No. 01-31434

ERIC VIZENA, Individually and on behalf of Erica Vizena, on behalf of John Eric Vizena; PATRICIA VIZENA, Individually and on behalf of Erica Vizena, on behalf of John Eric Vizena; MICHAEL ROUGEAU, Individually and on behalf of Kaitlen Rougeau, on behalf of Jena Rougeau; WENDY ROUGEAU, Individually and on behalf of Kaitlen Rougeau, on behalf of Jena Rougeau; ERIC'S BODY SHOP; ET AL,

Plaintiffs - Appellees

v.

UNION PACIFIC RAILROAD CO.,

Defendant - Appellant

HERBERT ARNOLD; JUDITH ARNOLD,

Plaintiffs - Respondents

v.

UNION PACIFIC RAILROAD CO.,

Defendant - Petitioner.

BRYANT CORMIER; SYBIL SMITH; WENDY THIBODEAUX,

Plaintiffs - Respondents,

v.

UNION PACIFIC RAILROAD CO.; ET AL,

Defendants.

UNION PACIFIC RAILROAD CO.,

Defendant - Petitioner.

GARY GAUDIN; LINDA GAUDIN,

Plaintiffs - Respondents,

v.

UNION PACIFIC RAILROAD CO; ET AL,

Defendants,

UNION PACIFIC RAILROAD CO.,

Defendant - Petitioner.

HOLLY FONTENOT; JOHN PASTERICK; EVELINE ARDOIN;
JOHN FONTENOT,

Plaintiffs - Respondents,

v.

UNION PACIFIC RAILROAD CO.; ET AL,

Defendants,

UNION PACIFIC RAILROAD CO.,

Defendant - Petitioner.

GARY FONTENOT, Etc; ET AL.;

Plaintiffs,

NEAL TRAHAN; AMY TRAHAN, on behalf of Brianne Stanford,

Plaintiffs - Respondents,

v.

UNION PACIFIC RAILROAD CO.; ET AL,

Defendants,

UNION PACIFIC RAILROAD CO.,

Defendant - Petitioners.

PATRICK MILLER; GAIL FRYE; DWIGHT COLLINS; APRIL
COLLINS; CLAYTON SCOTT, SR.; ET AL,

Plaintiffs - Respondents,

v.

UNION PACIFIC RAILROAD CO.,

Defendant - Petitioner.

WALTER J. ANDREPONT; PATRICK JAMES BERTRAND;
MARY INC., doing business as Manuel Oil Co.; LISA
THIBODEAUX; SAM E. THUMBLIN, JR.; ET AL.,

Plaintiffs - Respondents,

v.

UNION PACIFIC RAILROAD CO.; ET AL.,

Defendants,

UNION PACIFIC RAILROAD CO.,

Defendant - Petitioner.

JOHN DANA LATOUR; JUDY LATOUR; DULA JOHNSON

Plaintiffs - Respondents,

v.

UNION PACIFIC RAILROAD CO; ET AL

Defendants

UNION PACIFIC RAILROAD CO

Defendant - Petitioner

LINTON SAM

Plaintiffs - Respondents

v.

UNION PACIFIC RAILROAD CO

Defendant - Petitioner

DEBRA HARDY, on behalf of Kristen Hardy, on behalf of Leola Poulard, on behalf of Shaun Hardy; GARY HARDY, on behalf of Kristen Hardy, on behalf of Shaun Hardy, on behalf of Leola Poulard

Plaintiffs - Respondents

v.

UNION PACIFIC RAILROAD CO; ET AL

Defendants

UNION PACIFIC RAILROAD CO

Defendant - Petitioner

LADONNA SHEREE SNOW; TERRANCE PAUL HEBERT; TAMMIE G BERTRAND; CARL A BERTRAND; AMOS D GRAHAM; ET AL

Plaintiffs - Respondents

v.

UNION PACIFIC RAILROAD CO; ET AL

Defendants

UNION PACIFIC RAILROAD CO

Defendant - Petitioner

ALRISTELLE K THOMAS; STEVE CEASER; TIFFANY C
ROBINSON; QUITIN DOYLE; J L PITRE; ET AL

Plaintiffs - Respondents

v.

UNION PACIFIC RAILROAD CO; ET AL

Defendants

UNION PACIFIC RAILROAD CO

Defendant - Petitioner

BECKY BRUNET; RAMOND MALVEAUX; KIMBERLY
WALKER, Individually and on behalf of Caroline Elizabeth Walker,
on behalf of Ty Robert Walker; CHAD WAYNE DAIGLE,
Individually and on behalf of Jacoby Daigle, on behalf of Colby
Goodley; GENORA GOODLEY, Individually and on behalf of Jacoby
Daigle, on behalf of Colby Goodley;

Plaintiffs - Respondents

v.

UNION PACIFIC RAILROAD CO

Defendant - Petitioner

EBONY WILLIS; ETHEL WILLIS; ROZENA EDWARDS; JAMAL
WILLIS; LARRY EDWARDS

Plaintiffs - Respondents

v.

UNION PACIFIC RAILROAD CO; ET AL

Defendants

UNION PACIFIC RAILROAD CO

Defendant - Petitioner

ACADIANA AMUSEMENTS INC

Plaintiff - Respondent

v.

UNION PACIFIC RAILROAD CO; ET AL

Defendants

UNION PACIFIC RAILROAD CO

Defendant - Petitioner

SCOTT PERRODIN; LYNDA PERRODIN; STEVIE BERTRAND;
TINA BERTRAND

Plaintiffs - Respondents

v.

UNION PACIFIC RAILROAD CO; ET AL

Defendants

UNION PACIFIC RAILROAD CO

Defendant - Petitioner

MANZY THOMAS; MARGIE THOMAS; LLOYD H ANTOINE,
Individually and on behalf of Alex Antoine, on behalf of Anthony
Antoine; DENISE ANTOINE, Individually and on behalf of Alex
Antoine, on behalf of Anthony Antoine; ANTOINE FARMS

Plaintiffs - Respondents

v.

UNION PACIFIC RAILROAD CO

Defendant - Petitioner

JOSHUA WEST; HERMAN LAWRENCE, JR; TODD GUILLORY

Plaintiffs - Respondents

v.

UNION PACIFIC RAILROAD CO

Defendant - Petitioner

ELLA EDWARDS; RAUNDEA GUILLORY, Individually and on
behalf of Rondessio Guillory, on behalf of Fitzgerald Guillory; ANNIE
JACK; JOHNNY TILLMAN; LOLA WILSON

Plaintiffs - Respondents

v.

UNION PACIFIC RAILROAD CO

Defendant-Petitioner

PHILIP THOMAS; FREDERICK THOMAS; TRACY ELLISON;

HILARY THOMAS; GEORGE THOMAS; ET AL

Plaintiffs - Respondents

v.

UNION PACIFIC RAILROAD CO

Defendant - Petitioner

PERRY L JONES, SR, Individually and on behalf of D'Andrea Broussard, on behalf of Laci Broussard, on behalf of Tia Broussard, on behalf of Perry Jones, Jr, on behalf of Sharon Nicks; KENYA JONES, Individually and on behalf of D'Andrea Broussard, on behalf of Laci Broussard, on behalf of Tia Broussard, on behalf of Perry Jones, Jr, on behalf of Sharon Nicks; LAMIKAA MEEKS; RETINA SHANTELL MEEKS; MARIE SCOTT; ET AL

Plaintiffs - Respondents

v.

UNION PACIFIC RAILROAD CO; ET AL

Defendants

UNION PACIFIC RAILROAD CO

Defendant - Petitioner

HILDA FRANK; FRANCIS FRANK, JR, Individually and on behalf of Frankie H Frank, on behalf of Francine Frank, on behalf of Franko H Frank; FRANCIS FRANK, III; FRANDON FRANK; CURLEY FRANK; ET AL

Plaintiffs - Respondents

v.

UNION PACIFIC RAILROAD CO; ET AL

Defendants

UNION PACIFIC RAILROAD CO

Defendant - Petitioner

PAUL LANDRY; ROSE LANDRY, Individually and on behalf of
Keith Carrier; RAMONA LEMELLE, on behalf of Aaron Lemelle

Plaintiffs - Respondents

v.

UNION PACIFIC RAILROAD CO; ET AL

Defendants

UNION PACIFIC RAILROAD CO

Defendant - Petitioner

CHARLOTTE FONTENOT; CLARENCE FONTENOT; PEGGY
FONTENOT; RICHARD FONTENOT; ADRIAN LEDAY; ET AL

Plaintiffs - Respondents

v.

UNION PACIFIC RAILROAD CO; ET AL

Defendants

UNION PACIFIC RAILROAD CO

Defendant - Petitioner

PAUL DUPLANTIS; KAREN DUPLANTIS

Plaintiffs - Respondents

v.

UNION PACIFIC RAILROAD CO; ET AL

Defendants

UNION PACIFIC RAILROAD CO

Defendant - Petitioner

RODERICK ABNEY; LESTER ADAMS; M ANDERSON;
RICHARD ANDERSON; RICHARD P ANDERSON, JR; ET AL

Plaintiffs - Respondents

v.

UNION PACIFIC RAILROAD CO; ET AL

Defendants

UNION PACIFIC RAILROAD CO

Defendant - Petitioner

BERVICK ALLISON; VIRGINIA ALLISON; MARCEL
AUTHORLEE; COLANDRA AUTHORLEE

Plaintiffs - Respondents

v.

UNION PACIFIC RAILROAD CO; ET AL

Defendants

UNION PACIFIC RAILROAD CO

Defendant - Petitioner

BRIDGET WATSON; JARVOUS WATSON; CAROLYN THOMAS, individually and on behalf of Sharon Thomas, on behalf of Karen Thomas; SANDRA WILSON, individually and on behalf of Darrin Wilson; ELTRAY MAE COSTON, individually and on behalf of Jareika Guillory, on behalf of Keramyzhia Guillory; ET AL

Plaintiffs - Respondents

v.

UNION PACIFIC RAILROAD CO; ET AL

Defendants

UNION PACIFIC RAILROAD CO

Defendant - Petitioner

JOHN PATRICK HIGGINS, Dr; CAROL MCCAULEY HIGGINS; MARY CAROLINE HIGGINS; MARY CHRISTINA HIGGINS

Plaintiffs - Respondents

v.

UNION PACIFIC RAILROAD CO; ET AL

Defendants

UNION PACIFIC RAILROAD CO

Defendant - Petitioner

MARILYN TATTERSON, individually and on behalf of Gary
Tatterson, Jr; JOSEPH BRYANT BENNETT; LYNETTE
BROADWAY BESHEARS; LINDA FAYE WILLIAMS

Plaintiffs - Respondents

v.

UNION PACIFIC RAILROAD CO; ET AL

Defendants

UNION PACIFIC RAILROAD CO

Defendant - Petitioner

RUSSELL QUEBEDEAUX

Plaintiff - Respondent

v.

UNION PACIFIC RAILROAD CO

Defendant - Petitioner

FAQUETAIGUE GRAVITY DRAINAGE, district No 1 St Landry
Parish

Plaintiff - Respondent

v.

UNION PACIFIC RAILROAD CO

Defendant - Petitioner

KIMBERLY YOLAND WOODS, individually and on behalf of
Quentin Jermaine Ceasar, Jr; QUENTIN JERMAINE CEASAR

Plaintiffs - Respondents

v.

UNION PACIFIC RAILROAD CO

Defendant - Petitioner

STATE FARM FIRE & CASUALTY CO

Plaintiff - Respondent

v.

UNION PACIFIC RAILROAD CO

Defendant - Petitioner

FLORENCE L JONES; DELLA SANDERS IRELAND; AMY
LOUISE SANDERS

Plaintiffs - Respondents

v.

UNION PACIFIC RAILROAD CO; ET AL

Defendants

UNION PACIFIC RAILROAD CO

Defendant - Petitioner

RONALD GIBSON, individually and on behalf of Michael Ryan Gibson, on behalf of Malik Gibson; STEPHANIE VERNON GIBSON, individually and on behalf of Michael Ryan Gibson, on behalf of Malik Gibson; ZANN STACY, individually and on behalf of Zaelyn Stacy

Plaintiffs - Respondents

v.

UNION PACIFIC RAILROAD CO; ET AL

Defendants

UNION PACIFIC RAILROAD CO

Defendant - Petitioner

SCOTT FISHER

Plaintiff - Respondent

v.

UNION PACIFIC RAILROAD CO

Defendant - Petitioner

PAUL SOILEAU

Plaintiff - Respondent

v.

UNION PACIFIC RAILROAD CO

Defendant - Petitioner

RILEY HOWARD ANDRUS, JR

Plaintiff - Respondent

v.

UNION PACIFIC RAILROAD CO

Defendant - Petitioner

PATRICIA ANN EDWARDS, individually and on behalf of Williams Edwards, on behalf of Malcolm Edwards, on behalf of Patricia Sanchez Edwards, on behalf of Wesley Edwards, Jr; WESLEY EDWARDS, SR, individually and on behalf of Williams Edwards, on behalf of Malcolm Edwards, on behalf of Patricia Sanchez Edwards, on behalf of Wesley Edwards, Jr

Plaintiffs - Respondents

v.

UNION PACIFIC RAILROAD CO

Defendant - Petitioner

Appeal from the United States District Court
for the Western District of Louisiana

Before EMILIO M. GARZA, DEMOSS, and CLEMENT Circuit Judges.

PER CURIAM:

Union Pacific Railroad Company (“Union Pacific”) appeals the district court’s order certifying a class action under Rule 23 of the Federal Rules of Civil Procedure. Union Pacific argues that the district court erred in certifying the class and in admitting the testimony of two expert witnesses.

“The district court maintains great discretion in certifying and managing an action. We will reverse a district court’s decision to certify a class only upon a showing that the court abused its discretion, or that it applied incorrect legal standards in reaching its decision.” *Berger v. Compaq Computer Corp.*, 257 F.3d 475, 478 (5th Cir. 2001). “Implicit in this deferential standard is a recognition of the essentially factual basis of the certification inquiry and of the district court’s inherent power to manage and control pending litigation.” *Allison v. Citgo Petroleum Corp.*, 151 F.3d 402, 408 (5th Cir. 1998). An action may proceed *only* if the party seeking certification demonstrates that all four requirements of Rule 23(a) are met, and that at least one of three requirements of Rule 23(b) are met. *See* FED. R CIV. P. 23 (a-b); *Amchem Products Inc. v. Windsor*, 521 U.S. 591, 614, 117 S. Ct. 2231 (1997) (“In addition to satisfying Rule 23(a)’s prerequisites, parties seeking class certification must show that the action is maintainable under Rule 23(b)(1), (2), or (3)”). If the requirements of Rule 23 are not met then a class should not be certified. *See* FED. R CIV. P. 23(b); *Amchem*, 521 U.S. at 614.

“When because of absence of findings of fact or conclusions of law, an appellate court cannot determine whether the record supports the trial court decision, it should remand the action for entry of findings of fact and conclusions of law.” *Complaint of Ithaca Corp.*, 582 F.2d 3, 4 (5th Cir. 1978); *cf. Westwego Citizens for Better Government v. City of Westwego*, 872 F.2d 1201, 1204 (5th Cir. 1989) (“Because we find that the district court failed to explain its reasoning with sufficient particularity, we must remand this case to the district court so that it may make the specific findings

of fact and conclusions of law necessary to support a judgment.”). In a recent unpublished opinion we found a district court’s order certifying a class action “inadequate for review” because “it provided no factual findings or legal analysis.” *See Bell v. City of Dallas, Texas*, 81 Fed. Appx. 490, 491 (5th Cir. 2003) (unpublished). We vacated the order and remanded the case. *See id.*

In this case, the district court certified a class without any findings of fact, legal analysis, or even a cursory reference to Rule 23's requirements. Considering the deferential review provided a district court’s decision to certify a class and the burden on the plaintiff to meet each of the requirements of Rule 23, it is improper for a district court to certify a class action without first demonstrating that the plaintiff has satisfied each of the requirements of Rule 23. *See General Telephone Co. of Southwest v. Falcon*, 457 U.S. 147, 161, 102 S.Ct. 2364 (a “class action[] may only be certified if the trial court is satisfied, after a rigorous analysis, that the prerequisites of [Rule 23] have been satisfied”); *Castano v. American Tobacco Co.*, 84 F.3d 734, 740 (5th Cir. 1996) (“A district court must conduct a rigorous analysis of the rule 23 prerequisites before certifying a class.”). Thus, we hold that when certifying a class a district court must detail with sufficient specificity how the plaintiff has met the requirements of Rule 23.¹ Accordingly we VACATE the certification order, and REMAND the case to the district court for appropriate findings.

¹ As a plaintiff’s request for class certification must fail if any one of Rule 23's requirements is not met, in an order denying class certification the district court need only detail, with sufficient specificity, why the plaintiff failed to satisfy any one of Rule 23's requirements. However, if the plaintiff failed to satisfy more than one of Rule 23's requirements, prudence would suggest that the district court detail why the plaintiff failed to meet each of those requirements.