IN THE SUPREME COURT OF TEXAS

NO. 03-1189

DAIMLERCHRYSLER CORPORATION, PETITIONER,

v.

BILL INMAN, DAVID CASTRO, AND JOHN WILKINS, EACH INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED, RESPONDENTS

ON PETITION FOR REVIEW FROM THE
COURT OF APPEALS FOR THE THIRTEENTH DISTRICT OF TEXAS

Argued January 6, 2005

JUSTICE HECHT delivered the opinion of the Court, in which JUSTICE WAINWRIGHT, JUSTICE BRISTER, JUSTICE MEDINA, and JUSTICE WILLETT joined.

CHIEF JUSTICE JEFFERSON, joined by JUSTICE O'NEILL, JUSTICE GREEN, and JUSTICE JOHNSON, dissenting.

Three plaintiffs have sued for themselves and a nationwide class of some ten million owners and lessees of DaimlerChrysler vehicles, equipped with Gen-3 seatbelt buckles, and sold over the course of a decade. They allege that it is too easy to press the release button on the buckle and unlatch it without intending to do so. They do not contend that this is unavoidable, probable, or even eventual, only that it is possible. Two of the plaintiffs have never experienced anything like what they claim might happen, and the third is not sure whether he has or not, but he has never been injured. They have sued to have the buckles replaced with ones that are harder to unlatch. At least two similar class actions have been brought in other states without success.[1]

[1] *Quacchia v. DaimlerChrysler Corp.,* 19 Cal. Rptr. 3d 508 (Cal. Ct. App. 2004) (affirming the trial court's refusal to certify a class); *Hiller v. DaimlerChrysler Corp.*, No. 02-681, 2007 Mass. Super. LEXIS 442, 2007 WL 3260199 (Mass. Super. Ct. Sept. 25, 2007) (refusing class certification). In remanding *Hiller* to state court after removal, the United States District Court could not help but observe that "plaintiffs' lawsuit appears to be as manufactured as

Of course, the risk that seatbelt buckles will be unlatched accidentally can be eliminated by making them more difficult to operate, but that would discourage people from using them at all, resulting in more injuries. In designing seatbelt buckles, the risk of injury from accidental release of easy-to-unlatch buckles must be balanced against the risk of injury from non-use of hard-to-unlatch buckles, for either way, there is risk. The National Highway Traffic Safety Administration is charged with being sure that balance is struck in the right place for vehicles sold throughout the country. The decision is not one for a jury in one state or another to make for the rest of the nation. NHTSA has never required that the Gen-3 buckles be recalled and replaced.

The trial court granted class certification. The court of appeals reversed and remanded for further proceedings, holding that "the trial court still has significant pre-certification work to do" to determine which jurisdictions' laws would govern class members' claims.[2] But the court of appeals rejected DaimlerChrysler's broader argument: that the plaintiffs' fear of possible injury from an accidental release of a seatbelt is so remote that they lack standing to assert their claims.[3] That is, DaimlerChrysler argues not merely that the plaintiffs' claims will fail but that the court lacks jurisdiction to hear them. We agree, reverse the judgment of the court of appeals, and order the case dismissed.

I

Three Nueces County residents, Bill L. Inman, David Castro, and John Wilkins, bought Dodge vehicles manufactured by DaimlerChrysler Corp., equipped with Gen-3 seatbelt buckles — respectively, a new 1997 Dodge Caravan, a new 1995 Dodge Ram 1500, and a used 1999 Dodge

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defendant's cars". *Hiller v. DaimlerChrysler Corp.*, No. Civ.A. 02-10533-RWZ, 2004 U.S. Dist. LEXIS 4578, at *3, 2004 WL 574331 (D. Mass. Mar. 23, 2004). Two other state court class actions have been removed and remanded. *Coker v. DaimlerChrysler Corp.*, 220 F. Supp. 2d 1367 (N.D. Ga. 2002); *Sylvester v. DaimlerChrysler Corp.*, No. 1:02CV0567, 2002 U.S. Dist. LEXIS 17989, 2002 WL 32005242 (N.D. Ohio Mar. 25, 2002).

[2] 121 S.W.3d 862, 886 (Tex. App.–Corpus Christi 2003).

[3] *Id.* at 885.

Intrepid. Castro and Wilkins testified that they had never experienced any problems with the buckles and had never heard of anyone who had. Wilkins had been in one accident and the seatbelt worked properly. Inman testified that his seatbelt might have released twice when it should not have, but he was "not a hundred percent sure of this because [he] didn't pay any attention at the time". The first time, he did not know how he hit the release button, but "all at once" his seatbelt was loose. The second time, he said, he thought he bumped the button while trying to replace the lid on a cooler sitting between the seats of his van. He was not hurt or endangered either time, and he does not know of anyone who was ever harmed because of a Gen-3 buckle.

In June 2000, Inman sued DaimlerChrysler in the county court at law in Nueces County, alleging that the Gen-3 buckles were defective. Castro and Wilkins joined as plaintiffs in January 2002. In depositions, the plaintiffs explained why they decided to sue even though they had never been hurt because of their seatbelts. Inman testified that he had run into his lawyer on the street, who told him "there could be a problem with the seatbelt", and "some way or another [they] got around to sort of discussing a lawsuit." According to Castro's testimony, he became involved in this lawsuit after hearing that the seatbelts in his Dodge truck were defective from his cousin, an investigator working for the law firm representing Inman. Wilkins testified that he was informed by a friend who worked for the same firm that there was litigation over whether the Gen-3 buckle was defective. And so the three decided to sue on behalf of ten million vehicle owners and lessees across the nation.

In their seventh amended petition, the plaintiffs alleged that the Gen-3 buckle is "dangerously subject to accidental release, far more dangerous than other buckle designs", that it is "subject to release at any time, and especially in the event of a collision", and that the buckle "design does not minimize the possibility of accidental release". The plaintiffs do not contend that the buckle will release by itself; it must be pressed. They contend only that it is too easy for the button to be pressed inadvertently, either by the wearer or something else in the vehicle. The plaintiffs allege negligence, negligent misrepresentation, breach of express warranty that the vehicles are safe and meet all safety

requirements,[4] breach of the implied warranties of merchantability[5] and fitness for a particular purpose,[6] and violations of the Texas Deceptive Trade Practices-Consumer Protection Act.[7] They do not contend that the Gen-3 buckles made their vehicles worth less than they paid for them, and they expressly "do not seek damages for personal injury, property damage or death." They claim damages only for the cost of replacing the buckles with ones that are harder to unlatch, which they "believe[] to be not in excess of $75 per buckle", and any lost use while repairs are made, "believed not to exceed $500.00 per vehicle." Thus, if we assume four seatbelts per vehicle, plaintiffs claim no more than $2,400 for themselves and no more than $8 billion for the class.

DaimlerChrysler moved for summary judgment on the ground that the plaintiffs' pleadings failed to state a viable cause of action. The plaintiffs offered evidence of the defect they allege in the Gen-3 buckles. They contended that the buckle design violates a Federal Motor Vehicle Safety Standard requiring that a "[b]uckle release mechanism shall be designed to minimize the possibility of accidental release."[8] The plaintiffs offered evidence that the buckles failed "ball tests" used by the industry to determine the force required to press the release button, but they offered no evidence that there was any governmental requirement that the buckles pass such tests. They also offered evidence that DaimlerChrysler received fifty complaints documenting over one hundred instances when Gen-3 buckles unlatched, and that the buckles unlatched in two NHTSA crash tests and in crash tests conducted by the Canadian government and DaimlerChrysler itself, but they offered no

[4] *See* TEX. BUS. & COM. CODE § 2.313.

[5] *Id.* § 2.314.

[6] *Id.* § 2.315.

[7] *Id.* §§ 17.41-.63.

[8] 49 C.F.R. § 571.209 S4.1(e).

evidence that any determination has ever been made that the buckles unlatched more easily than they should. The trial court denied DaimlerChrysler's motion. In certifying the class, the court found:

> Plaintiffs' claims are not based on any hypothetical defect in the Gen-3 buckle that may, or may not, manifest itself in the future. Instead, Plaintiffs' allege that the sale of Gen-3 buckles breached warranties and consumer remedies because each buckle was sold in violation of federal standards, industry standards, and Defendant's internal standards and that each Gen-3 buckle has manifested this breach from the moment it was sold until the present.

The trial court certified two classes. One was for:

> All United States resident persons (except residents of California or Nevada) who own or lease new vehicles, model year 1993-2002, manufactured and/or sold by Daimler/Chrysler and equipped with Gen-3 seat belt buckles ... [excluding] any person who has an action for damages for personal injury or death or property damage against Defendants.

The other class was identical except for the word "used" in place of "new". On appeal, Daimler-Chrysler argued that the case should be dismissed because the plaintiffs had not sustained any legally cognizable injury and therefore lacked standing to assert their claims. Alternatively, Daimler-Chrysler argued that the class should be decertified because the trial plan adopted by the trial court was flawed and incomplete, the plaintiffs were inadequate class representatives, and they had not satisfied the predominance, superiority, and manageability requirements for class certification contained in Rule 42(b)(3) of the Texas Rules of Civil Procedure. Specifically, DaimlerChrysler argued that the trial court would be required to apply the laws of 48 states and adjudicate issues peculiar to individual class members. The court of appeals rejected DaimlerChrysler's standing argument but agreed that the trial court had not fully examined what law should govern the class claims.[9] There it stopped; without addressing DaimlerChrysler's other arguments, the court reversed the class certification and remanded the case for further proceedings.[10]

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[9] 121 S.W.3d 862, 885-886 (Tex. App.–Corpus Christi 2003) .

[10] *Id.*

We granted DaimlerChrysler's petition for review to consider its argument that the plaintiffs lack standing to assert their claims.

II

The parties agree that the plaintiffs cannot succeed on any of their claims without showing they have suffered legally compensable injury. But the plaintiffs argue that they need not show that they can prove the requisite injury until after class certification has been decided and the trial court reaches the merits of their claims.[11] DaimlerChrysler argues that the claimed injury is so hypothetical, so iffy, that the plaintiffs do not have standing to assert it and the court does not have jurisdiction to hear it.[12] The issue is important because courts must not decide hypothetical claims.[13] Practically speaking, the timing is important, because a disagreement over $2,400 is one thing and a disagreement over $8 billion is quite another.

A person who buys a defective product can sue for economic damages,[14] but the law is not well developed on the degree to which the defect must actually manifest itself before it is actionable. For example, in *Compaq Computer Corp. v. Lapray*, we observed that "the law in most states (including Texas) is unclear" on "whether to permit express warranty claims for unmanifested

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[11] *See Intratex Gas Co. v. Beeson*, 22 S.W.3d 398, 404 (Tex. 2000) ("Deciding the merits of the suit in order to determine the scope of the class or its maintainability as a class action is not appropriate. . . . However, in determining whether the class-certification requirements have been satisfied, the trial court may look beyond the pleadings."); *see also Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 178 (1974) ("In determining the propriety of a class action, the question is not whether the plaintiff or plaintiffs have stated a cause of action or will prevail on the merits, but rather whether the requirements of [the procedural rule governing class actions] are met." (quoting *Miller v. Mackey Int'l*, 452 F.2d 424 (5th Cir. 1971))).

[12] *See Texas Ass'n of Bus. v. Tex. Air Control Bd.*, 852 S.W.2d 440, 444 (Tex. 1993) ("An opinion issued in a case brought by a party without standing is advisory because rather than remedying an actual or imminent harm, the judgment addresses only a hypothetical injury.").

[13] *See id.*

[14] *E.g. Plas-Tex, Inc. v. U.S. Steel Corp.*, 772 S.W.2d 442, 443-445 (Tex. 1989).

defects".[15] The plaintiffs here argue that this issue cannot be resolved until the trial court determines whether a class should be certified. Nor, they say, can the court consider at this stage whether the defect they allege in the Gen-3 seatbelt buckle has manifested itself sufficiently for them to recover damages on their other claims for negligence, negligent misrepresentation, breach of implied warranties, or DTPA violations.

But DaimlerChrysler does not argue here that the plaintiffs' claims cannot succeed (although that is certainly their position). Rather, it argues that whatever the plaintiffs' causes of action may require, they have not suffered the kind of injury to give them standing to invoke the trial court's subject-matter jurisdiction. If there is no injury sufficient for jurisdiction, surely there is no injury sufficient for a cause of action. But if the plaintiffs have no standing, the trial court has no more jurisdiction to deny their claims than it does to grant them. Without jurisdiction, the trial court should not render judgment that the plaintiffs take nothing; it should simply dismiss the case.[16]

The requirement in this State that a plaintiff have standing to assert a claim derives from the Texas Constitution's separation of powers among the departments of government, which denies the judiciary authority to decide issues in the abstract, and from the Open Courts provision, which provides court access only to a "person for an injury done him".[17] A court has no jurisdiction over a claim made by a plaintiff without standing to assert it.[18] For standing, a plaintiff must be

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[15] 135 S.W.3d 657, 679 (Tex. 2004) (footnote omitted). *Cf. Collins v. DaimlerChrysler Corp.,* 894 So.2d 988 (Fla. Dist. Ct. App. 2004) (holding that plaintiff's complaint that the value of her car was less because it was equipped with Gen-3 seatbelt buckles is actionable under the state consumer protection law even though the alleged defect has never manifest itself in an emergency or caused damages).

[16] *See, e.g., Martinez v. Second Injury Fund of Tex.,* 789 S.W.2d 267, 277 (Tex. 1990) (Hecht, J., dissenting) ("Rendition of judgment on the merits is inappropriate in an action over which the trial court lacks jurisdiction."); *West v. Brenntag Sw., Inc.*, 168 S.W.3d 327, 339 (Tex. App.–Texarkana 2005, pet. denied) ("Having found that West lacked standing to sue for negligence or nuisance, the judgment as to those claims is reversed and judgment is rendered that those claims be dismissed for want of jurisdiction. The judgment as to the remaining claims is reversed and judgment is rendered that West take nothing.").

[17] *Texas Ass'n of Bus.*, 852 S.W.2d at 444; TEX. CONST. art. I, § 13 ("All courts shall be open, and every person for an injury done him, in his lands, goods, person or reputation, shall have remedy by due course of law.").

[18] *Texas Ass'n of Bus.*, 852 S.W.2d at 444.

personally aggrieved;[19] his alleged injury must be concrete and particularized,[20] actual or imminent, not hypothetical.[21] A plaintiff does not lack standing simply because he cannot prevail on the merits of his claim; he lacks standing because his claim of injury is too slight for a court to afford redress.

We have drawn this distinction in a recent case, *M.D. Anderson Cancer Center v. Novak*.[22] Attorney Novak received a form letter from the M.D. Anderson Cancer Center soliciting donations and stating that "well over 50%" of its cancer patients "return home cured".[23] Novak did not contribute; instead, he sued the hospital on behalf of everyone who received the letter, alleging that the stated cure-rate was false and the letter therefore fraudulent.[24] This Court held that he lacked standing to assert his individual claim:

> Even if Novak was an intended victim of a "completed" mail fraud for purposes of governmental prosecution, he was not actually defrauded. His lack of any actual or threatened injury prevents him from being "personally aggrieved" such that he has any personal stake in the litigation. Therefore, Novak lacks standing as an individual . . . .[25]

It was irrelevant whether M.D. Anderson's fund-raising letter was false, or whether recipients might have been deceived into giving when they would not otherwise have done so. The point was that

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[19] *Nootsie, Ltd. v. Williamson County Appraisal Dist.,* 925 S.W.2d 659, 661 (Tex. 1996) ("A plaintiff has standing when it is personally aggrieved.").

[20] *Brown v. Todd*, 53 S.W.3d 297, 305 (Tex. 2001) (stating that for a plaintiff to have standing he "'must establish that he has a "personal stake" in the alleged dispute' and that the injury suffered is 'concrete and particularized'", quoting *Raines v. Byrd*, 521 U.S. 811, 819 (1997), citing *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-561 (1992)).

[21] *Texas Ass'n of Bus.*, 852 S.W.2d at 444.

[22] 52 S.W.3d 704 (Tex. 2001).

[23] *Id.* at 706.

[24] *Id.*

[25] *Id.* at 707-708 (citations and emphasis omitted).

Novak was not himself deceived or injured, and therefore he did not have standing individually to assert fraud. Accordingly, we dismissed the entire action for want of jurisdiction.[26]

M.D. Anderson is different from the present case in that once Novak decided the letter was false, he could never be deceived and therefore could never be injured, other than out of concern for others. In this case, the plaintiffs *could* accidentally unlatch their Gen-3 seatbelt buckles and subject themselves to harm, though that has never happened to two of them and the third is unsure. *M.D. Anderson* is important because it shows that standing, and the concrete injury it requires, is quite distinct from the merits of a claim and the injury required to prove it.

Two decisions from the Fifth Circuit illustrate this point. In *Rivera v. Wyeth-Ayerst Laboratories*, Rivera used Duract, a prescription painkiller manufactured by Wyeth.[27] Wyeth had instructed that the drug should not be used for more than ten days generally and not by anyone with preexisting liver conditions.[28] Over the course of a year, before Wyeth voluntarily withdrew Duract from the market, twelve users reportedly suffered liver failure.[29] Eleven of them had used the drug for more than ten days, and the twelfth had a history of liver disease.[30] Although Rivera suffered no physical or emotional harm herself, she sued for a refund of the purchase price on behalf of all other users of the drug who also had not been harmed, alleging that the product was defective.[31] She sued only for breach of an implied warranty of merchantability and sought only economic damages.[32] The

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[26] *Id.* at 711.

[27] 283 F.3d 315, 316-317 (5th Cir. 2002).

[28] *Id.* at 316-317.

[29] *Id.* at 317.

[30] *Id.*

[31] *Id.* at 317, 319-320.

[32] *Id.* at 319-320.

court concluded that the kind of injury Rivera alleged did not give her standing to sue.[33] Accordingly, it dismissed the action for want of jurisdiction.

Contrast *Rivera* with *Cole v. General Motors Corp.*[34] There, GM determined that a defect in side-impact-air-bag sensing modules would improperly trigger inflation. As the court explained:

> GM sent a voluntary recall notice to all DeVille record owners and lessees explaining that GM
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> > has decided that a defect which relates to motor vehicle safety exists and may manifest itself in your 1998 or 1999 model year Cadillac DeVille. [GM] ha[s] learned of a condition that can cause the side impact air bags in your car to deploy unexpectedly, without a crash, as you start your car or during normal driving.
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> GM indicated that it had received 306 reports of inadvertent deployment out of approximately 224,000 affected vehicles.[35]

Three plaintiffs sued for economic damages because repairs to the vehicles were unreasonably delayed. GM argued that they lacked standing, based on *Rivera*. The court disagreed.[36]

An important difference between these two cases is that the *Cole* plaintiffs alleged a defect that would cause GM's side-impact air bags to deploy by itself unexpectedly during normal operation, something GM conceded in its voluntary recall, while the *Rivera* plaintiffs alleged a defect in medication which had caused injury only when taken by someone contrary to Wyeth's instructions. In *Cole*, injury was a matter of time; in *Rivera*, it might never happen. The air bags in Cole's vehicle might deploy improperly regardless of what she did, just as they might in the other vehicles in which they were installed. Taking Duract had not hurt Rivera, and there was almost no

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[33] *Id.* at 321-322.

[34] 484 F.3d 717 (5th Cir. 2007).

[35] *Id*. at 718-719.

[36] *Id*. at 722-723.

chance that the defect she alleged in the drug ever would injure her, given that she was fully aware of the restrictions on its use.

Any possibility of injury to the plaintiffs in the present case is even more remote than it was in *Rivera*. There, Wyeth received twelve complaints over a year before it voluntarily withdrew the drug from the market. Here, according to the plaintiffs themselves, DaimlerChrysler received only fifty complaints from ten million vehicle owners and lessees over ten years — five per year, one for every 200,000 owners and lessees. By comparison, in *Cole*, GM received 306 reports in two years, one for every 732 owners and lessees. In any event, evidence of such complaints cannot prove defect.[37] The plaintiffs contend that ball tests showed how easily the Gen-3 buckle release button could be pressed and that crash tests showed that the buckle could somehow be unlatched, but there is nothing to indicate that the design of the buckle failed to minimize the risk of accidental release versus the risk of non-use so as to pose any concrete threat of injury to the plaintiffs.

The dissent criticizes us for assuming that Texas law governs, but it unquestionably does — over the issue of standing, a part of subject-matter jurisdiction, which is the only issue we decide. The dissent argues that we have improperly focused our standing analysis on the plaintiffs' claims rather than on the plaintiffs themselves, but that is incorrect. We do not rule out the possibility that somewhere there may be owners or lessees of vehicles with Gen-3 seatbelt buckles that can allege concrete injury. Our focus is on Inman, Castro, and Wilkins, and they have not shown that they can. The dissent argues that standing requires only, one, a real controversy that, two, will be determined. Those are requirements for standing,[38] but so is concrete injury, because if injury is only hypothetical,

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[37] *Nissan Motor Co. v. Armstrong*, 145 S.W.3d 131, 140 (Tex. 2004) ("we have never held that mere claims of previous accidents can prove a product is defective").

[38] *Austin Nursing Ctr., Inc. v. Lovato*, 171 S.W.3d 845, 849 (Tex. 2005); *Nootsie, Ltd. v. Williamson County Appraisal Dist.*, 925 S.W.2d 659, 662 (Tex. 1996); *Texas Ass'n of Bus. v. Tex. Air Control Bd.*, 852 S.W.2d 440, 446(Tex. 1993).

there is no real controversy.[39] The dissent argues essentially that our conclusion that the plaintiffs lack standing is nothing more than a summary judgment on the merits of their claims, that we have "equate[d] standing with an unsuccessful claim",[40] but this is simply wrong. We agree that the allegations in *Cole* gave the plaintiff standing, regardless of whether she could prevail on the merits of her claim, and even though the Fifth Circuit denied class certification.[41] We do not render judgment that the plaintiffs take nothing, as we would if their claims failed on the merits; we dismiss the case for want of jurisdiction. We do not decide the degree to which a defect must manifest itself in a product before a warranty is breached. Standing in this case is a separate inquiry, just as it was in *M.D. Anderson* and *Rivera*.

Both of those cases show that when a claim of injury is extremely remote, the jurisdictional inquiry cannot be laid aside in an expectation that the claimant will also lose on the merits. A court that decides a claim over which it lacks jurisdiction violates the constitutional limitations on its authority, even if the claim is denied. As the United States Supreme Court has warned, the denial of a claim on the merits is not an alternative to dismissal for want of jurisdiction merely because the ultimate result is the same because the assertion of jurisdiction "carries the courts beyond the bounds of authorized judicial action and thus offends fundamental principles of separation of powers."[42]

The dissent charges that our decision "suggests a visceral distaste of class actions". We disagree. We simply think that the rights of ten million vehicle owners and lessees across the United States should not be adjudicated in an action brought by three plaintiffs who cannot show more than the merest possibility of injury to themselves. To hold that Inman, Castro, and Wilkins have

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[39] *Texas Ass'n of Bus.*, 852 S.W.2d at 444.

[40] *Ante* at ___.

[41] 484 F.3d 717, 730 (5th Cir. 2007).

[42] *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 94 (1998).

standing would drain virtually all meaning from the requirements that a plaintiff must be "personally aggrieved" and that his injury must be "concrete" and "actual or imminent".

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If the named plaintiffs in a putative class action do not have standing to assert their own individual claims, the entire actions must be dismissed.[43] Accordingly, the judgment of the court of appeals is reversed and the case is dismissed for want of jurisdiction.

Nathan L. Hecht
Justice

Opinion delivered: February 1, 2008

[43] *M.D. Anderson Cancer Ctr. v. Novak*, 52 S.W.3d 704, 711 (Tex. 2001) ("Accordingly, if the named plaintiff lacks individual standing, the court should dismiss the entire [class action] suit for want of jurisdiction.").