

Relying on *Walmart v. Dukes* (US 2011), a Saginaw County circuit judge de-certifies a class of 2,500 in a dioxin contamination suit against Dow Chemical

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This week a Saginaw County circuit judge de-certified a class of property owners along the Tittabawassee floodplain whose properties have allegedly been injured by dioxin contamination from Dow Chemical's Midland plant. Since 2003 about 150 Tittabawassee property owners have sought to bring a class action against Dow for the contamination and have asserted that they represent a class of around 2,500 other property owners whose property values have also been affected. While the judge initially certified the class in 2005 and then reconfirmed the certification in 2009 after a Michigan Supreme Court decision on class-certification standards, he recently granted Dow's motion for reconsideration. He based his de-certification decision on the U.S. Supreme Court's recent decision in *Wal-Mart v. Dukes*. In *Wal-Mart*, the U.S. Supreme Court concluded, in a 5-4 decision, that it was not proper to certify a class of 1.5 million Wal-Mart workers against whom Wal-Mart had allegedly discriminated based on sex. The Supreme Court held that no common question of law or fact was present where there was no evidence that Wal-Mart had some policy that applied to the individual employment decisions affecting the proposed class members. The Saginaw judge reasoned that, just as in *Wal-Mart*, there was no "glue" to hold all the plaintiffs' claims together." Each property owner's injuries would differ, for example, based on the level of contamination on each property and on different remediation needs. Further coverage of this decision can be found in the [Midland Daily News](#), in the [Michigan Messenger](#), and at [Law.com](#).