

STATE OF MICHIGAN
COURT OF APPEALS

GEORGE BADEEN and MIDWEST RECOVERY
AND ADJUSTMENT, INC., on Behalf of
Themselves and All Others Similarly Situated,

Plaintiffs-Appellants,

v

PAR NORTH AMERICA, doing business as PAR,
INC., REMARKETING SOLUTIONS,
CENTERONE FINANCIAL SERVICES, LLC,
MILLENIUM CAPITAL AND RECOVERY
CORP., RENOV0 SERVICES, LLC,
RENAISSANCE RECOVERY SOLUTIONS, INC.,
ASR NATIONWIDE, LLC, THE M. DAVIS CO.,
INC., doing business as USA RECOVERY
SOLUTIONS, REPOSSESSORS, INC.,
NATIONAL ASSET RECOVERY CORP.,
TD AUTO FINANCE, LLC, TOYOTA MOTOR
CREDIT CORP., NISSAN MOTOR ACCEPTANCE
CORP., SANTANDER CONSUMER USA, INC.,
PNC BANK, NA, BANK OF AMERICA, NA,
FIFTH THIRD BANK, and THE HUNTINGTON
NATIONAL BANK,

Defendants-Appellees,

and

FIRST NATIONAL REPOSSESSORS, INC., MV
CONNECT, LLC, doing business as IIA, LLC,
AMERICAN RECOVERY SERVICE, INC.,
DIVERSIFIED VEHICLE SERVICES, INC.,
CONSUMER FINANCIAL SERVICES, LLC, GE
MONEY BANK, EVAN BURKHOLDER,
CENTERONE DEBT MANAGEMENT SERVICES
LLC, CHRYSLER CREDIT CORP., and
NATIONAL CITY CORP.,

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September 10, 2026
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No. 371851
Wayne Circuit Court
LC No. 10-004053-CZ

Defendants.

Before: M. J. KELLY, P.J., and O'BRIEN and LIEVENSE, JJ.

PER CURIAM.

In this putative class action, plaintiffs, George Badeen and Midwest Recovery and Adjustment, Inc., on behalf of themselves and all others similarly situated, appeal as of right the trial court's order dismissing plaintiffs' claims against the nearly three dozen defendants. Plaintiffs assert eight separate counts and are seeking damages from defendants, at least in part, for defendants' supposed violations of the Occupational Code, MCL 339.101 *et seq.*, and the Regulation of Collection Practices Act (RCPA), MCL 445.251 *et seq.* Each of those statutes provide for recovery of actual damages or a minimum amount of recovery regardless of actual damages incurred. In *Rodriguez v Hirshberg Acceptance Corp*, 341 Mich App 349; 991 NW2d 217 (2022) (*Rodriguez I*), vacated 514 Mich 906 (2024), this Court held that MCR 3.501(A) barred class actions premised on statutes that provide for minimum amounts of recovery regardless of actual damages unless the statutes expressly permit recovery through class actions. Because neither the Occupational Code nor the RCPA expressly permit recovery through class action, the trial court reasoned that it was required to dismiss plaintiffs' claims on the basis of *Rodriguez I*.

On appeal, plaintiffs rightly note that *Rodriguez I* is no longer binding because it was vacated, and they ask this Court to reject *Rodriguez I*'s interpretation of MCR 3.501(A)(5) and to instead read that court rule as permitting this class action because it seeks actual damages. That is, plaintiffs argue that MCR 3.501(A)(5) only bars class actions that seek a minimum amount of recovery regardless of actual damages, so class actions under the Occupational Code and the RCPA seeking actual damages are permissible. Plaintiffs further contend that regardless of how MCR 3.501(A)(5) is interpreted, their individual claims and other potential class-action claims should be allowed to proceed.

Consistent with *Rodriguez I*, we hold that MCR 3.501(A)(5) precludes class actions seeking to recover damages under statutes that mandate a minimum amount of recovery regardless of actual damages incurred and do not expressly permit recovery through class actions, like the Occupational Code and the RCPA. The trial court thus properly dismissed plaintiffs' class action to the extent that plaintiffs sought to recover damages for violations of the Occupational Code and the RCPA. We decline to address whether MCR 3.501(A)(5) precludes plaintiffs' other class-action claims (if any) because we conclude that this issue is not properly before us, but we conclude that MCR 3.501(A)(5) does not preclude plaintiffs' individual claims, so the trial court erred by dismissing plaintiffs' other claims against defendants on grounds that it was required by MCR 3.501(A)(5) to do so. We therefore affirm in part, vacate in part, reverse in part, and remand for further proceedings.

I. BACKGROUND

This is not the first time that this case has been through this state’s appellate courts. This case centers around practices in the debt-collection business, and in a prior appeal, our Supreme Court set forth the basic facts concerning the parties’ roles in that business:

For many years, the collection industry involved two players: the creditors and the collection agents that they hired to collect debts. But in the late 1990s, as the collection industry evolved, a middleman emerged. These middlemen—known as forwarders or forwarding companies—operate as intermediaries between creditors and local collection agents. The forwarding companies’ business model involves obtaining assignments of unpaid accounts from creditors and then allocating the collection of those accounts to local collection agents. The forwarding companies do not, however, contact debtors themselves.

* * *

Plaintiff George Badeen, a licensed collection agency manager, owns and operates Midwest Recovery and Adjustment, Inc., a licensed collection agency doing business in Michigan. The primary business of Midwest Recovery is repossessing automobiles when it is assigned a delinquent account by a financing company.

This dispute’s origins lie in the shifting landscape of collection practices. In the past, when a creditor needed a debt collected or something repossessed, it would contact and retain a collection agent wherever the debtor was located. But the business model has changed with the introduction of forwarding companies. Now forwarding companies act as middlemen between the lenders and the local collection agents. The forwarding companies operate nationwide, and when a creditor needs a collection, it contracts with a forwarding company, which, in turn, allocates the collection to a collection agent in the appropriate location. The forwarding companies maintain networks of collection agents and negotiate favorable rates that save creditors money and allow the forwarding companies to make a profit. Plaintiffs allege that this business model negatively affects licensed local collection agents. [*Badeen v PAR, Inc*, 496 Mich 75, 78-81; 853 NW2d 303 (2014).]

Plaintiffs also believed that certain aspects of this business model violated the Occupational Code and the RCPA. As a result, in 2010, plaintiffs filed suit seeking certification of a class comprised of automobile repossession entities that held Michigan debt-collection licenses, and, on behalf of themselves and the proposed class, plaintiffs sought to recover damages from defendants for defendants’ alleged violations of the Occupational Code and the RCPA, among other bases for relief.

What followed was a lengthy procedural history that took this case up to our Supreme Court, back to the trial court, then to federal court, where it went up to the United States Supreme Court, until the case eventually landed back in state trial court. During that time, this Court decided

Rodriguez I, which interpreted MCR 3.501(A)(5) to mean that “when a statute provides for a minimum penalty irrespective of actual damages, no class action may be maintained on the basis of that statute.” *Rodriguez I*, 341 Mich App at 358. So, back in the trial court, defendants moved for summary disposition under MCR 2.116(C)(8), citing *Rodriguez I* and arguing that, because the Occupational Code and the RCPA provide for a minimum penalty irrespective of actual damages, MCR 3.501(A)(5) barred plaintiffs’ class action based on those statutes. At the hearing on this motion, plaintiffs’ counsel admitted that *Rodriguez I* was controlling, and the trial court subsequently entered an order dismissing plaintiffs’ case in its entirety.

While plaintiffs’ appeal was pending, our Supreme Court vacated this Court’s opinion in *Rodriguez I*, concluding that a notice of settlement “rendered the issues before [the] Court moot.” *Rodriguez v Hirshberg Acceptance Corp*, 514 Mich 906, 906 (2024) (*Rodriguez II*).

The trial court’s order dismissing plaintiffs’ complaint on the basis of *Rodriguez I* is now before this Court for review.

II. STANDARDS OF REVIEW

We review de novo a trial court’s decision on a motion for summary disposition. *Yellow Tail Ventures, Inc v City of Berkley*, 344 Mich App 689, 699; 1 NW3d 860 (2022). Defendants moved for summary disposition under MCR 2.116(C)(8), which is appropriately granted “when the opposing party has failed to state a claim upon which relief may be granted.” *Bodnar v St John Providence, Inc*, 327 Mich App 203, 212; 933 NW2d 363 (2019). A (C)(8) motion considers “the pleadings alone.” *Id.* “All well-pleaded factual allegations are to be accepted as true and are to be construed in the light most favorable to the nonmoving party.” *Id.*

The proper interpretation and application of a court rule is reviewed de novo. *Green v Pontiac Public Library*, 350 Mich App 478, 486; 32 NW3d 487 (2024).

III. CLASS ACTIONS

The trial court relied exclusively on *Rodriguez I* to dismiss plaintiffs’ complaint. As plaintiffs rightly observe on appeal, that case is no longer binding because our Supreme Court vacated it. See *Estate of Wanda Jesse v Lakeland Specialty Hosp at Berrien Ctr*, 328 Mich App 142, 149 n 2; 936 NW2d 705 (2019) (explaining that opinions of this Court that are vacated are not precedentially binding). But that does not mean that *Rodriguez I* was wrongly decided; it simply means that we are not bound by *Rodriguez I*’s reading of MCR 3.501(A)(5). We must decide for ourselves whether MCR 3.501(A)(5) bars class actions like plaintiffs’ that seek to recover damages under statutes that provide for minimum amounts of recovery regardless of actual damages but do not expressly permit recovery through class actions.¹

¹ Plaintiffs contend that because the trial court relied entirely on *Rodriguez I* to dismiss plaintiffs’ complaint, and because *Rodriguez I* is no longer binding, this Court should simply vacate the trial court’s order and remand for further proceedings. Plaintiffs contend that this route is preferable because it promotes “efficiency” and “finality.” We do not see how. Deciding this issue now is

Answering this question requires this Court to interpret MCR 3.501(A)(5). Court rules are interpreted in the same manner as statutes. *Estate of Maki v Coen*, 318 Mich App 532, 540; 899 NW2d 111 (2017). The goal when interpreting a statute is to give effect to the intent of the Legislature. *Farris v McKaig*, 324 Mich App 349, 353; 920 NW2d 377 (2018). The most reliable evidence of the Legislature’s intent is the words of the statute, *id.*, so properly interpreting a statute begins by examining the statute’s language. *Foster v Van Buren Co*, 332 Mich App 273, 280-281; 956 NW2d 554 (2020). If the statute’s language is clear and unambiguous, then no further interpretation is required, and the statute must simply be enforced as written. *Bronson Health Care Group, Inc v Esurance Prop & Cas Ins Co*, 348 Mich App 428, 439; 19 NW3d 151 (2023).

MCR 3.501(A)(5) provides:

An action for a penalty or minimum amount of recovery without regard to actual damages imposed or authorized by statute may not be maintained as a class action unless the statute specifically authorizes its recovery in a class action.

By its plain language, this rule applies in limited circumstances. The preliminary question we must answer, then, is whether MCR 3.501(A)(5) applies here—that is, whether the statutes under which plaintiffs seek to recover via class action are covered by MCR 3.501(A)(5).

As relevant to this case, MCR 3.501(A)(5) applies if a statute under which recovery is sought in a class action “impose[s]” or “authorize[s]” a “minimum amount of recovery without regard to actual damages.” Plaintiffs seek to recover damages from defendants for their alleged violations of the Occupational Code and the RCPA. MCL 339.916(1) of the Occupational Code provides a cause of action for violation of the code, and Subsection (2) provides that recovery in such an action “shall be in the amount of actual damages or \$50.00, whichever is greater.”² MCL 445.257(1) of the RCPA likewise provides a cause of action for violation of the act, and Subsection (2) provides that recovery in such an action “shall be in the amount of actual damages or \$50.00, whichever is greater.” MCL 445.257(2).³

The Occupational Code and the RCPA thus both impose or authorize a minimum amount of recovery without regard to actual damages, so class actions seeking to recover under these

obviously the most efficient way to address it. And having this Court decide the issue promotes finality because our decision is final unless it is disturbed by our Supreme Court. We also observe that this case has been lingering in the court system for 16 years, and the parties are entitled to a resolution of their dispute as quickly as possible.

² MCL 339.916(2) further provides that, if the court finds that a defendant’s violation of the Occupational Code was willful, then the court “may award a civil penalty of not less than 3 times the actual damages, or \$150.00, whichever is greater and shall award reasonable attorney’s fees and court costs incurred in connection with the action.”

³ MCL 445.257(2) further provides that, if the court finds that a defendant’s violation of the RCPA was willful, then “the court may assess a civil fine of not less than 3 times the actual damages, or \$150.00, whichever is greater, and shall award reasonable attorney’s fees and court costs incurred in connection with the action.”

statutes are subject to MCR 3.501(A)(5). Returning to the plain language of that court rule, it permits class actions under statutes like the Occupational Code and the RCPA only if those statutes “specifically authorize[]” recovery in a class action. See MCR 3.501(A)(5). Neither the Occupational Code nor the RCPA authorize class actions as a means of recovery, so plaintiffs’ class action seeking recovery on the basis of those statutes is precluded by MCR 3.501(A)(5).

Arguing against this result, plaintiffs insist that application of MCR 3.501(A)(5) to a class action depends on the type of damages that the class seeks. According to plaintiffs, if the class is seeking to recover the statutory minimum in damages, then MCR 3.501(A)(5) precludes the class action, but if the class is seeking “actual damages,” then MCR 3.501(A)(5) does not preclude the class action. Plaintiffs claim that their class action under the Occupational Code and the RCPA “seek[s] actual, not statutory damages,” so they conclude that “MCR 3.501(A)(5) does not preclude plaintiffs from bringing their claims under the Occupational Code and the RCPA as class claims.”

The problem with this argument is that neither the Occupational Code nor the RCPA allow a plaintiff to select what type of damages they are seeking. Each statute states that “recovery shall be in the amount of actual damages or \$50.00, whichever is greater.” MCL 445.257(2); MCL 339.916(2). So, if the factfinder determines that a class member’s “actual damages” for a violation of the Occupational Code or the RCPA was less than \$50, then that class member *must* recover \$50 in damages, because that is what the plain language of the statutes says. The statutes do not give the claimant the option to recover actual damages less than \$50—the statutes state that “recovery *shall* be in the amount of actual damages *or* \$50.00, *whichever is greater.*” MCL 445.257(2) (emphasis added); MCL 339.916(2) (emphasis added). See *Smitter v Thornapple Twp*, 494 Mich 121, 136; 833 NW2d 875 (2013) (explaining that use of the word “shall” “indicates a mandatory directive”).

It therefore does not matter whether plaintiffs claim to be seeking only “actual damages” under the Occupational Code and the RCPA. The statutes mandate a minimum amount of recovery for any action brought under the statutes, which means that any class action seeking to recover damages under those statutes will necessarily be “[a]n action for a . . . minimum amount of recovery without regard to actual damages imposed or authorized by statute” subject to MCR 3.501(A)(5). That court rule precludes plaintiffs’ class action seeking to recover damages under the Occupational Code or the RCPA because neither statute “specifically authorizes” recovery in a class action. MCR 3.501(A)(5).

To summarize, recovery for violations of the Occupational Code and the RCPA is governed by MCL 445.257 and MCL 339.916, and MCR 3.501(A)(5), by its plain terms, precludes class actions seeking to recover damages under those statutes. The trial court therefore properly dismissed plaintiffs’ class action to the extent that it sought recovery on the basis of violations of the Occupational Code and the RCPA.

Finally, it is not apparent that plaintiffs’ complaint alleges other class-action claims that do not seek recovery on the basis of violations of the Occupational Code and the RCPA, but if such claims exist, we vacate the trial court’s order dismissing them. We believe that the only issue related to plaintiffs’ class action that is properly presented on appeal—and thus the only issue that we decide—is whether plaintiffs’ class action must be dismissed to the extent that it seeks to

recover damages on the basis of defendants' alleged violations of the Occupational Code and the RCPA. We offer no opinion as to whether *all* class-action claims alleged in a class-action complaint are precluded by MCR 3.501(A)(5) if one of the complaint's class-action claims is precluded by MCR 3.501(A)(5). If plaintiffs alleged other class-action claims not premised on violations of either the Occupational Code or the RCPA, then the parties can litigate those claims below, including whether they must be dismissed by application of MCR 3.501(A)(5). If plaintiff did not allege any such claims, then all of plaintiff's class-action claims are precluded by MCR 3.501(A)(5).

IV. INDIVIDUAL CLAIMS

Plaintiffs also contend the trial court erred by dismissing their individual claims. We agree. As this Court explained in *Rodriguez I*, "MCR 3.501(A)(5) appears within a rule expressly addressing class actions," so "an action" as used in the rule clearly refers to "a *class* action." *Rodriguez I*, 341 Mich App at 358. Even if this was not clear from the court rule's context, it is "quite impossible that our Supreme Court intended MCR 3.501(A)(5) to forbid any lawsuit whatsoever based on" a statute that provides a minimum amount of recovery without regard to actual damages. *Id.* (quotation marks and citation omitted). Accord *McDougall v Schanz*, 461 Mich 15, 27; 597 NW2d 148 (1999) (explaining that our Supreme Court "is not authorized to enact court rules that establish, abrogate, or modify the substantive law"). Stated differently, MCR 3.501(A)(5) cannot be plausibly interpreted as preventing a plaintiff from bringing individual claims under statutes that authorize minimum amounts of recovery without regard to actual damages that are not recoverable through a class action. So, as applied here, MCR 3.501(A)(5) does not preclude plaintiffs' individual claims against defendants under the Occupational Code and the RCPA. The trial court thus erred by dismissing plaintiffs' individual claims on that ground.

V. CONCLUSION

We affirm the trial court's dismissal of plaintiffs' class action to the extent that the dismissal was consistent with this opinion; we vacate the trial court's dismissal of plaintiffs' class action to the extent that the dismissal was inconsistent with this opinion; we reverse the trial court's dismissal of plaintiffs' individual claims; and we remand this case to the trial court for further proceedings.

Affirmed in part, vacated in part, reversed in part, and remanded for further proceedings. We do not retain jurisdiction.

/s/ Michael J. Kelly
/s/ Colleen A. O'Brien
/s/ Andrew J. Lievens