IN THE DISTRICT COURT OF APPEAL OF FLORIDA
THIRD DISTRICT

DAWN K. ROBERTS, in her official capacity as Interim Secretary of State of the State of Florida,

Appellant,

v.

ANGELFISH SWIM SCHOOL, INC., and STEAK ON THE RUN, INC.

Appellees.

DCA Case No.: 3D10-1611
L.T. Case No.: 03-13413 CA 21

ON APPEAL FROM A NON-FINAL ORDER OF THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT, IN AND FOR MIAMI-DADE COUNTY, FLORIDA

AMICI CURIAE BRIEF OF PUBLIC JUSTICE, ET AL., IN SUPPORT OF APPELLEES ANGELFISH SWIM SCHOOL, INC. AND STEAK ON THE RUN, INC.

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TABLE OF CONTENTS

TABLE OF CONTENTS i
TABLE OF AUTHORITIES ii
STATEMENT OF INTEREST v
I. SUMMARY OF ARGUMENT 1
II. ARGUMENT 4
A. The Purpose Of Class Actions Would Be Undermined By A Financial Resources Test 4
B. A Financial Resources Test Conflicts With Rules And Precedent Regarding The Determination Of A Class Representative's Adequacy 9
C. Adopting A Class Representative Financial Resources Test Would Preclude Cases That Protect The Public Interest 12
III. CONCLUSION 14
CERTIFICATE OF SERVICE 20
CERTIFICATE OF COMPLIANCE WITH FONT REQUIREMENT 21

TABLE OF AUTHORITIES

Cases

Amchem Prods., Inc. v. Windsor, 521 U.S. 591, 625 (1997) 9

Brink v. First Credit Resources, 185 F.R.D. 567, 571 (D. Ariz. 1999) 8

Broin v. Philip Morris Companies, Inc., 641 So. 2d 888, 891-92 (Fla. 3d DCA 1994) 5

Carnegie v. Household Int'l, Inc., 376 F.3d 656, 661 (7th Cir. 2004) 5

City of Tampa v. Addison, 979 So. 2d 246, 253-54 (Fla. 2nd DCA 2007) 9

Comes v. Microsoft Corp., 696 N.W.2d 318, 327 (Iowa 2005) 7

County of Suffolk v. Long Island Lighting Co., 710 F. Supp. 1407, 1414(E.D.N.Y. 1989) 7

Daar v. Yellow Cab Co., 67 Cal. 2d 695, 714-715 (1967) 6

Deposit Guaranty National Bank v. Roper, 445 U.S. 326, 100 S. Ct. 1166, 63 L.Ed.2d 427 (1980) 2

Dolgow v. Anderson 43 F.R.D. 472, 484-85 (E.D.N.Y. 1968) 6

Florida Title Loans v. Christie, 770 So. 2d 750 (Fla. 1st DCA 2000) 12

Grosso v. Fidelity Nat'l Title Ins. Co., 983 So. 2d 1165, 1173 (Fla. 3d DCA 2008) 9, 11

Haymons v. Williams, 795 F. Supp. 1511 (M.D. Fla. 1992) 14

In re Oracle Sec. Litig., 136 F.R.D. 639, 643 (N.D. Cal. 1991) 8

Janicik v. Prudential Ins. Co. of America, 451 A.2d 451, 460 (Pa. Super. Ct. 1982) 7

Johnson v. Plantation General Hosp. Ltd., 641 So. 2d 58, 60 (Fla. 1994) 4

Kingston Square Tenants Ass'n v. Tuskegee Gardens, Ltd., 792 F. Supp. 1566 (S.D. Fla. 1992) 14

Lessard v. Metropolitan Life Ins. Co., 103 F.R.D. 608, 612 (D. Me. 1984) 7

Lexzcynski v. Allianz Ins. Co. 176 F.R.D. 659, 674 (S.D. Fla. 1997) 6

North Star Capital Acquisitions v. Krig, 611 F. Supp. 2d 1324 (M.D. Fla. 2009). 13

Peterson v. H.R. Block Tax Serv., 174 F.R.D. 78, 87 (N.D. Ill. 1997) 7

Phillips Petroleum Co. v. Shutts, 472 U.S. 797, 809, 105 S.Ct. 2965, 2973, 86 L.Ed. 628 (1985) 5

Rand v. Monsanto, 926 F.2d 596, 599 (7th Cir. 1991) 2, 4, 7

Reuter v. Davis, 2006 WL 3743016 (Fla. Cir. Ct. Dec. 12, 2006) 13

Roper v. Consurve, Inc., 578 F.2d 1106, 1112 n.4 (5th Cir. 1978) 2

Sanderson v. Winner, 507 F.2d 477, 479-80 (10th Cir. 1974)..... 2

Sayre v. Abraham Lincoln Federal Savings & Loan Ass'n, 65 F.R.D. 379, 385 (E.D. Pa. 1974)..... 7

South Carolina Nat'l Bank v. Stone 139 F.R.D. 325, 329 (D.C.1991) 8

State v. Homeside Lending, Inc., 826 A.2d 997, 1013 (Vt. 2003) 11

Tenney v. City of Miami Beach, 11 So. 2d 188, 189 (Fla. 1942)..... 5

Turner Greenberg Assocs., Inc. v. Pathman, 885 So. 2d 1004, 1008 (Fla. 4th DCA 2004) 10

Other Authorities

Arthur Miller, *An Overview of Federal Class Actions: Past, Present and Future* (F.J.C. 1977)..... 2

Jane Musgrave, *Payday Loan Customer Can Sue, Judge Says*, Palm Beach Post, Jan. 11, 2008, at 1B..... 13

John C. Coffee, Jr., *The Regulation of Entrepreneurial Litigation: Balancing Fairness and Efficiency in the Large Class Action*, 54 U. Chi. L. Rev. 877, 883 (1987) 11

Joseph M. McLaughlin, McLaughlin on Class Actions § 4:32 (6th ed. 2009)..... 7

Rules

Fla. Rule of Professional Conduct 4-1.8(e)(1) 10

Rule 1.220(a)(4) 1, 9, 11

STATEMENT OF INTEREST

Amici Curiae, Public Justice, the National Association of Consumer Advocates, the Public Interest Law Section of The Florida Bar, Jacksonville Area Legal Aid and Florida's Children First, are National Public Interest Organizations, a Section of The Florida Bar, Coalitions of Consumer Groups and Advocates, a State Children's Advocacy Organization and a Legal Service Provider. Their respective Statements of Interest are attached in Appendix A. The *Amici* have an intense interest in the issue raised because they often represent low income people who would be excluded from the courts if they were required to personally and individually finance the entire cost of a class action. Most of these organizations regularly represent citizens in class actions, and our experience is that the class action device often represents the only meaningful way that individuals can vindicate important legal rights.

For example, Public Justice and Jacksonville Area Legal Aid currently represent a number of consumers in class actions in Florida state courts against payday lenders. Because of the small individual damages at issue in these cases and the great complexity of bringing these cases even on an individual basis, the predatory lenders can be held accountable for their wrongdoing only through the use of the class action mechanism. Because some of the arguments advanced by Appellant in this case would, if adopted, undermine the class action device in

important respects, the *Amici* have a significant interest in the issues before this Court.

The *Amici* do not render any opinion on the veracity of the underlying claims in this case. Instead, this brief will focus exclusively on the issue of whether a class representative needs to have the financial resources to personally and individually finance the cost of the litigation in order to satisfy the adequacy requirement of Rule 1.220(a)(4) of the Florida Rules of Civil Procedure. For the reasons set forth below, this Court should rule that as long as the class representative has made appropriate arrangements to cover the costs of the litigation, his adequacy is established.

I. SUMMARY OF ARGUMENT

Appellant, Dawn K. Roberts, Florida's interim Secretary of State, argues that Appellees, Angelfish Swim School, Inc. and Steak on the Run, Inc., cannot adequately represent a putative class of businesses because they cannot personally fund the costs of class litigation. This argument is not supported by Rule 1.220(a)(4), which states merely that a named plaintiff is adequate if "the representative party can fairly and adequately protect and represent the interests of each member of the class." Before adopting a financial resources test for putative class representatives that would depart significantly from the language of the rule and engraft a new requirement for adequacy, this Court must take a long look at the impacts such a test would have on class action litigation in this state.

Generally speaking, the state's proposed financial resources test ignores that overemphasizing the financial capacity of the named plaintiffs bars the courthouse doors to all but the wealthiest plaintiffs; others will be unable to shoulder the burden of paying for the entire litigation themselves, rather than merely a *pro rata* share. As Professor Arthur Miller commented, requiring class representatives to demonstrate that they can finance the action "is a rather tricky consideration that must be treated with some care because if financial capacity is emphasized, it may mean that poorer claimants will be prevented from maintaining class actions." Arthur Miller, *An Overview of Federal Class Actions: Past, Present and Future*

(F.J.C. 1977) at 32, *cited* in Roper v. Consurve, Inc., 578 F.2d 1106, 1112 n.4 (5th Cir. 1978), *aff'd sub nom.*, Deposit Guaranty National Bank v. Roper, 445 U.S. 326, 100 S. Ct. 1166, 63 L.Ed.2d 427 (1980); *see also* Sanderson v. Winner, 507 F.2d 477, 479-80 n.3 (10th Cir. 1974)("Federal judges take an oath to administer justice without respect to persons, and do equal right to the poor and to the rich.") (quotation marks omitted). Put another way, "[t]he very feature that makes class treatment appropriate—small individual stakes and large aggregate ones—ensures that the representative will be unwilling to vouch for the entire costs. Only a lunatic would do so. A madman is not a good representative of the class." Rand v. Monsanto, 926 F.2d 596, 599 (7th Cir. 1991).

More specifically, the undersigned *amici* contend that the adoption of a financial resources test would be contrary to the historical purpose of class actions in general and create conflicts between class members and their representatives that undermine the adequacy of the class representatives. Furthermore, when applied to cases brought by low-income individuals in Florida, it is clear that such a test would have precluded these cases from ever being filed and prevented the people of Florida from remedying wrongs done to them.

For these reasons, this Court must not adopt any form of financial resources test for determining the adequacy of Florida class representatives. Indeed, the Appellant in this case—who, as a state elected official, should be acting to benefit

the people of Florida, not deny them justice—should have weighed the impact its proposed test would have on the consumers of this state before advocating such a radical and detrimental position.

II. ARGUMENT

A. The Purpose Of Class Actions Would Be Undermined By A Financial Resources Test

"The purpose of the class action is to provide litigants who share common questions of law and fact with an economically viable means of addressing their needs in court." Johnson v. Plantation General Hosp. Ltd., 641 So. 2d 58, 60 (Fla. 1994). By definition, class action plaintiffs have individual damages that are too small to justify bringing suit individually. *See, e.g.*, Rand, 926 F.2d at 599 ("Class actions assemble small claims—usually too small to be worth litigating separately, but repaying the effort in the aggregate."). If this Court were to adopt a rule requiring the named class plaintiff to pay the entire litigation costs themselves, average consumers would be precluded from litigating their rights. Such a rule would leave only the rich and powerful with the ability to seek justice. Closing the courthouse doors to those without the financial ability to carry thousands—or millions—of dollars in litigation costs fatally undermines the public benefits provided by class actions.

The United States Supreme Court has often recognized that one of the core benefits of the class action rule is that it allows individuals to share the otherwise insurmountable litigation costs:

> Class actions also may permit the plaintiffs to pool claims which would be uneconomical to litigate

> individually. For example, this lawsuit involves claims averaging about $100 per plaintiff; most of the plaintiffs would have no realistic day in court if a class action were not available.

Phillips Petroleum Co. v. Shutts, 472 U.S. 797, 809, 105 S.Ct. 2965, 2973, 86 L.Ed. 628 (1985). In other words, the "realistic alternative to a class action is not 17 million individual suits, but zero individual suits, as only a lunatic or a fanatic sues for $30." Carnegie v. Household Int'l, Inc., 376 F.3d 656, 661 (7th Cir. 2004). Likewise, this Court has previously recognized the advantages that class actions provide to judicial efficiency and in the smooth handling of large numbers of essentially identical disputes:

> The very purpose of a class suit is to save a multiplicity of suits, to reduce the expense of litigation, to make legal processes more effective and expeditious, and to make available a remedy that would not otherwise exist." Tenney v. City of Miami Beach, 11 So. 2d 188, 189 (Fla. 1942). Here, as in Tenney, if we were to construe the rule to require each person to file a separate lawsuit, the result would be overwhelming and financially prohibitive. Although defendants would not lack the financial resources to defend each separate lawsuit, the vast majority of class members, in less advantageous financial positions, would be deprived of a remedy. We decline to promote such a result.

Broin v. Philip Morris Companies, Inc., 641 So. 2d 888, 891-92 (Fla. 3d DCA 1994).

Under the rule proposed by Appellant, class representatives must be independently wealthy before they can pursue their rights and the rights of the

class. This requirement disregards the utility of the class action mechanism in cases involving scams and illegal practices targeting low-income people. Indeed, limiting class representatives to only the rich defeats some of the historical purposes of class actions within our system of justice:

> The class action is particularly appropriate where those who have allegedly been injured are in a poor position to seek legal redress, either because they do not know enough or because such redress is disproportionately expensive. [citation omitted] Its historic mission has been to take care of the smaller guy.

Dolgow v. Anderson, 43 F.R.D. 472, 484-85 (E.D.N.Y. 1968). *See also* Daar v. Yellow Cab Co., 67 Cal. 2d 695, 714-715 (1967); Lexzcynski v. Allianz Ins. Co. 176 F.R.D. 659, 674 (S.D. Fla. 1997).

For precisely this reason, courts across the country have resisted the suggestion that the plaintiff's financial resources can determine their fitness to represent the class. As expressed by the U.S. Court of Appeals for the Seventh Circuit in plain terms,

> No (sane) person would pay the entire costs of a securities class action in exchange for a maximum benefit of $1,135. None would put up $25,000 or even $2,500 against a hope of recovering $1,135. The very feature that makes class treatment appropriate--small individual stakes and large aggregate ones-- ensures that the representative will be unwilling to vouch for the entire costs. Only a lunatic would do so. A madman is not a good representative of the class.

Rand, 926 F.2d at 599. This reasoning is the majority rule. Peterson v. H.R. Block Tax Serv., 174 F.R.D. 78, 87 (N.D. Ill. 1997) ("Indeed, most courts concur with Rand."); Joseph M. McLaughlin, McLaughlin on Class Actions § 4:32 (6th ed. 2009) (Rand's interpretation has "gained ascendancy").

Similarly, another court "decline[d], as a matter of policy, to preclude persons from representative status solely because they lack erudition or financial resources." Lessard v. Metropolitan Life Ins. Co., 103 F.R.D. 608, 612 (D. Me. 1984). Another held that denying a class when plaintiffs "of little or modest means" cannot personally fund litigation "would be to defeat the very purpose which class actions were designed to achieve . . . . [W]e cannot condone a policy which would effectively limit class action plaintiffs to corporations, municipalities, or the rich." County of Suffolk v. Long Island Lighting Co., 710 F. Supp. 1407, 1414 (E.D.N.Y. 1989) (*citing* Sayre v. Abraham Lincoln Federal Savings & Loan Ass'n, 65 F.R.D. 379, 385 (E.D. Pa. 1974)). *See also, e.g.*, Comes v. Microsoft Corp., 696 N.W.2d 318, 327 (Iowa 2005) (class representatives need not fund litigation themselves when counsel has asserted willingness to advance all costs); Janicik v. Prudential Ins. Co. of America, 451 A.2d 451, 460 (Pa. Super. Ct. 1982) ("Overly strict financing requirements would limit the class action to wealthy litigants, contrary to its purposes. A lack of funding by the representative plaintiff, without more, is not sufficient to warrant denial of class certification.");

In re Oracle Sec. Litig., 136 F.R.D. 639, 643 (N.D. Cal. 1991) ("To require recoupment of litigation expenses from the class representative is at odds with Rule 23 ...."); South Carolina Nat'l Bank v. Stone 139 F.R.D. 325, 329 (D.S.C.1991) ("the named plaintiff's willingness, or lack thereof, to advance the full costs of the litigation or of class notice is irrelevant"); Brink v. First Credit Resources, 185 F.R.D. 567, 571 (D. Ariz. 1999) (class representative's financial commitment is sufficient where he pays his *pro rata* share because he is not responsible for the entire cost of a class action largely benefitting strangers).

Refusing to certify a class whenever the named plaintiffs are not financially able or willing to contribute to the cost of the litigation beyond their *pro rata* share of the costs means that wrongdoers will benefit from taking advantage of those with the least amount of resources to protect themselves. At the same time, plaintiffs with little or no financial resources will be left without any practical recourse for many types of wrongs committed against them. The class action device is one of the few protections that consumers have against many deceptive practices employed by the less ethical members of our society. Taking away this protection for all but the independently wealthy will open the floodgates for fraud and deceit.

B. A Financial Resources Test Conflicts With Florida Rules And Precedent Regarding The Determination Of A Class Representative's Adequacy

Nothing in Florida law about the adequacy of class representatives supports the state's attempt to impose a financial resources test. Rule 1.220(a)(4) requires only that "the representative party can fairly and adequately protect and represent the interests of each member of the class." Cases have further explained that "[t]he inquiry into the adequacy-of-representation requirement is twofold: (1) whether class counsel are qualified, experienced, and generally able to conduct the proposed litigation and (2) whether the class representatives have interests antagonistic to those of the rest of the class." City of Tampa v. Addison, 979 So. 2d 246, 253-54 (Fla. 2nd DCA 2007). Indeed, the question of a conflict between the class representatives and the rest of the class is at the heart of the adequacy inquiry, which "serves to uncover conflicts of interest between named parties and the class they seek to represent." Grosso v. Fidelity Nat'l Title Ins. Co., 983 So. 2d 1165, 1173 (Fla. 3d DCA 2008) (*citing* Amchem Prods., Inc. v. Windsor, 521 U.S. 591, 625 (1997).

Additionally, Florida law makes clear that adequacy is established if "the named representatives have interests in common with the proposed class members and the representatives *and their qualified attorneys* will properly prosecute the class action." Turner Greenberg Assocs., Inc. v. Pathman, 885 So. 2d 1004, 1008

(Fla. 4th DCA 2004) (emphasis added) (citations omitted). Florida law thus plainly permits class counsel to fund the litigation. *See also* Fla. Rule of Professional Conduct 4-1.8(e)(1) ("[A] lawyer may advance court costs and expenses of litigation, the repayment of which may be contingent on the outcome of the matter."). Regardless of whether the named plaintiffs themselves have the financial resources to personally fund the litigation, they satisfy their duties to the class by ensuring that the case can be "properly prosecute[d]." The underlying source of that funding is not relevant; the only issue for the trial court to examine is whether adequate funding is available. The trial court in this case did precisely that.

Not only is the wealth of class representatives thus not a component of the adequacy inquiry, but imposing a financial resources test *creates* a conflict between the class representatives and other class members. The facts of this case provide an apt demonstration of this problem. Here, the named plaintiffs are challenging less than $1,000 in late fees and reinstatement fees, and the other members of the class have suffered similarly small damages. But if the two class representatives were required to fund all the litigation costs in this case including notice to the class, each will be forced to invest a vast quantity of money in the case, giving them an interest in the litigation distinctly different from the other members of the class. They will have a much greater incentive to settle the case

individually, or for little or no benefit to the class, because of their individual interest in recovering the enormous amounts they have already invested.

The conflict that a financial resources test would create between class representatives and the other members of the class resembles the well-known conflict that sometimes exists between class counsel and class members. *See, e.g.*, John C. Coffee, Jr., *The Regulation of Entrepreneurial Litigation: Balancing Fairness and Efficiency in the Large Class Action*, 54 U. Chi. L. Rev. 877, 883 (1987) ("It is no secret that substantial conflicts of interest between attorney and client can arise in class action litigation."). But this conflict between class attorneys and clients is simply unavoidable in class action litigation. *See, e.g.*, State v. Homeside Lending, Inc., 826 A.2d 997, 1013 (Vt. 2003) ("[A]ttorneys for the class in a damages action often have an unavoidable conflict of interest with the class that does not make their representation inadequate per se."). In contrast, conflicts between class representatives and the remainder of the class *must* be prevented, since they render class representatives inadequate under Rule 1.220(a)(4). Florida law makes clear that "the relationship between the class and class representatives must be free from conflicts of interest." Grosso, 983 So. 2d at 1173. It is therefore nonsensical to create a rule that would, by its very nature, engineer a fatal conflict between the class representative and members of the class.

C. Adopting A Class Representative Financial Resources Test Would Preclude Cases That Protect The Public Interest

Finally, numerous important class actions that protected the rights of Florida citizens never could have been brought if the named representative plaintiffs had been required to fund the litigation themselves. Without the class action mechanism—and the ability to proceed without a demonstration of the class representative's personal wealth—individuals would be left without any means to fight back against wrongdoers.

In particular, there have been a multitude of class actions in the State of Florida where the class was represented by individuals who were obviously unable to participate in the litigation costs because they involved financial misconduct which specifically targeted low-income consumers. In Florida Title Loans v. Christie, 770 So. 2d 750 (Fla. 1st DCA 2000), for example, a class of borrowers brought a claim against a title loan company that charged the named plaintiff 264% interest on a $500 loan secured by the title to his truck. When the City of Jacksonville restricted the interest that lenders could charge on title loans, the lender unilaterally rescinded the loan agreement, requiring payment within sixty days or threatening repossession. Faced with this threat, the lender induced borrowers to take out loans with even higher interest rates from a sister business in Georgia. The borrower was only able to bring his claim because he was represented by legal services, which is unsurprising, since people who take out title

loans with staggeringly high interest rarely have independent funds to pay a lawyer. Accordingly, the only way he could have paid the costs of the entire class, one imagines, would be by taking out more predatory title loans. Another predatory lending case, Reuter v. Davis, 2006 WL 3743016 (Fla. Cir. Ct. Dec. 12, 2006), involved a class action by low-income borrowers against a payday lender that charged interest rates up to 615.94%. That action settled for more than $10 million dollars. Jane Musgrave, *Payday Loan Customer Can Sue, Judge Says*, Palm Beach Post, Jan. 11, 2008, at 1B.

In another case, a class of purported debtors filed counterclaims against a debt collector and debt collection law firm for violating the Fair Debt Collection Practices Act and the Florida Consumer Collection Practices Act. North Star Capital Acquisitions v. Krig, 611 F. Supp. 2d 1324 (M.D. Fla. 2009). The counterclaims alleged that the defendants had served debtors with grossly misleading and deceptive documents. Once again, the class of purported debtors—who, if the debt collectors are to be believed, lacked the funds even to pay their existing debts—was represented by legal services. Appellant's new rule for adequacy of class representatives would have required the debtors to pay the entire cost of class litigation when they could not even afford a lawyer.

Other kinds of claims, too, are unique to lower-income individuals, and these claims could never be vindicated if class representatives were forced to bear

the entire cost of the litigation. In one case, mentally ill or mentally retarded adults living in group homes brought a civil rights action alleging that the state had violated their due process rights in terminating their home health care services without notice or an opportunity to respond. Haymons v. Williams, 795 F. Supp. 1511 (M.D. Fla. 1992). The named plaintiffs, as mentally handicapped individuals represented by legal aid lawyers, almost certainly could not have borne the costs of the entire litigation—which resulted in a judgment for the class as a matter of law. Id. at 1524. Similarly, the plaintiffs in Kingston Square Tenants Ass'n v. Tuskegee Gardens, Ltd., 792 F. Supp. 1566 (S.D. Fla. 1992), were public housing tenants who alleged the managers allowed the buildings to deteriorate dangerously, posing a threat to their health and well-being. Only with the assistance of legal aid counsel were they able to proceed in court to protect their rights. Had they been forced to bear the costs of the litigation themselves, their homes would have continued to crumble around them.

III. CONCLUSION

The creation of a financial resources test is contrary to well-established class action law and would effectively bar the courthouse doors to poor claimants. Requiring the named representative to pay for anything above their own *pro rata* share of the costs, where they have arranged for notice costs to be handled by counsel, would frustrate the historical purpose of the class action device and many

future public interest cases. Therefore, this Court should not disturb the trial court's finding of adequacy based upon a speculation that the named representatives will be unable to personally and individually shoulder the anticipated costs of litigation.

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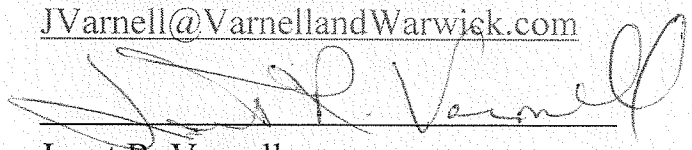
By: 

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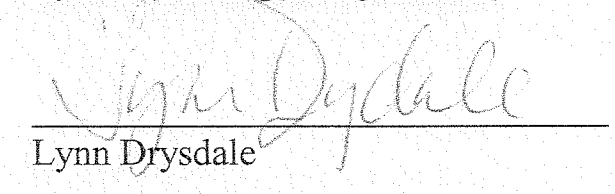
By: 
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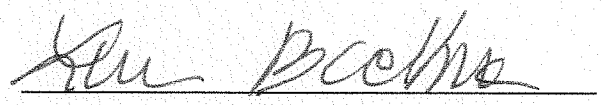
By: 

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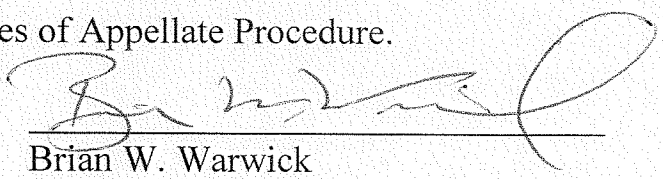
CERTIFICATE OF COMPLIANCE WITH FONT REQUIREMENT

I certify that the font used in this brief is Times New Roman 14 point and incompliance with Rule 9.210, Florida Rules of Appellate Procedure.

By: 

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APPENDIX A

INDEX FOR APPENDIX A

INDEX 1

STATEMENT OF INTEREST PUBLIC JUSTICE, P.C. 2

STATEMENT OF INTEREST NATIONAL ASSOCIATION OF CONSUMER ADVOCATES 3

STATEMENT OF INTEREST JACKSONVILLE AREA LEGAL AID, INC. 4

STATEMENT OF INTEREST PUBLIC INTEREST LAW SECTION OF THE FLORIDA BAR 5

STATEMENT OF INTEREST FLORIDA CHILDREN'S FIRST, INC. 6

STATEMENT OF INTEREST
PUBLIC JUSTICE, P.C.

Public Justice, P.C. is a national public interest law firm dedicated to preserving access to justice and holding the powerful accountable. Public Justice specializes in precedent-setting and socially significant individual and class action litigation designed to advance civil rights and civil liberties, consumer and victims' rights, workers' rights, the preservation of the civil justice system, and the protection of the poor and powerless. Public Justice is committed to ensuring that all Americans have meaningful access to justice.

Public Justice regularly represents consumers and employees in class actions, and our experience is that the class action device often represents the only meaningful way that individuals can vindicate important legal rights. In particular, Pubic Justice currently represents a number of consumers in class actions in Florida state courts against payday lenders. Because of the small individual damages at issue in these cases and the great complexity of bringing these cases even on an individual basis, the predatory lenders can be held accountable for their wrongdoing only through the use of the class action mechanism. Because some of the arguments advanced by Appellant in this case would, if adopted, undermine the class action device in important respects, Public Justice has a significant interest in the issues before this Court.

STATEMENT OF INTEREST
NATIONAL ASSOCIATION OF CONSUMER ADVOCATES

The National Association of Consumer Advocates ("NACA") is an organization of over 1,500 member attorneys who are actively engaged in promoting a fair and open marketplace that forcefully protects the rights of consumers, particularly those of modest means.

NACA's interest in this case stems from its members' concerns regarding access to justice for consumers, especially the poor or otherwise disadvantaged. In particular, the ability of consumers to utilize the class mechanism is critical to the public's perception and confidence that consumers are on a level playing field when pitted against large powerful entities, whether government or private, in legal disputes. The Appellant in this case suggests application of a radically different standard of adequacy of representation in a class action. If this Court were to adopt such a standard, it would dramatically impact the ability of consumers to enforce their rights and would dim the public's confidence in the judicial system's ability to maintain fairness and justice.

STATEMENT OF INTEREST
JACKSONVILLE AREA LEGAL AID, INC.

Jacksonville Area Legal Aid, Inc. ("JALA") is a non-profit 501(c)(3) corporation that funds a law firm specializing in providing civil legal assistance to low-income and poor working-class persons of Florida. JALA believes that the outcome of this case will significantly impact the access to justice for this segment of the population.

JALA regularly represents consumers in class actions, and our experience is that the class action device often represents the only meaningful way that individuals can vindicate important legal rights. In particular, JALA currently represents a number of consumers in class actions in Florida state courts against car dealers and payday lenders. Because of the small individual damages at issue in these cases and the great complexity of bringing these cases even on an individual basis, the predatory lenders can be held accountable for their wrongdoing only through the use of the class action mechanism. Because some of the arguments advanced by Appellant in this case would, if adopted, undermine the class action device in important respects, JALA has a significant interest in the issues before this Court.

STATEMENT OF INTEREST
PUBLIC INTEREST LAW SECTION OF THE FLORIDA BAR

The Public Interest Law Section (PILS) is a section of The Florida Bar whose purpose is to further the advocacy and enhancement of constitutional, statutory or other rights that protect the dignity, security, justice, liberty, or freedom of the individual or public, and a forum for discussion and exchange of ideas leading to increased knowledge and understanding of the areas of public interest law. PILS does not render any opinion on the veracity of the underlying claims in this case. Instead, this brief will focus exclusively on the issue of whether a class representative needs to have the financial resources to personally and individually finance the cost of the litigation in order to satisfy the adequacy requirement of Rule 1.220(a)(4) of the Florida Rules of Civil Procedure. This brief was reviewed by the Executive Committee of the Board of Governors of The Florida Bar on November 22, 2010 consistent with applicable standing board policies. It is tendered solely by the Public Interest Law Section and supported by the separate resources of this voluntary organization – not in the name of The Florida Bar, and without implicating the mandatory membership fees paid by any Florida Bar licensee.

STATEMENT OF INTEREST
FLORIDA CHILDREN'S FIRST, INC.

FCF was founded by Florida's leading child advocates in order to advance children's rights. FCF is a 501(c)(3) non-profit advocacy organization and is not affiliated with any government agency or the court system. FCF is primarily funded through private contributions and is also a recipient of grants from The Florida Bar Foundation, The Eckerd Family Foundation and The Annie E. Casey Foundation.

FCF was created to address the serious unmet legal needs of children who require legal representation in the various forums that affect their lives. FCF's goals include advancing children's legal rights consistent with their medical, educational, and social needs through significant improvements in all systems affecting children's lives. FCF uses litigation, legislative and policy advocacy, executive branch monitoring, training and technical assistance to lawyers representing children, public awareness and the recruiting of pro bono attorneys to represent children to achieve its goals.

FCF has been representing Florida's children in matters of systemic improvement through its work and referrals from the community for eight years. FCF provides legal representation in cases that have systemic implications in order to protect children and their legal, developmental, psychological, educational and

residential placement rights and needs. The child's interests are often opposed to those of state agencies, parents or legal custodians. FCF does not typically represent individual children at the trial level. FCF does file *amicus curiae* briefs and memoranda of law to assist courts in consideration of public policy implications of trial court decisions.

PREVIOUS *AMICUS* SUBMISSIONS: FCF has been granted leave to appear as *amicus curiae* in several appellate and trial court cases in Florida, including: *Dept. of Child. & Families v. K.D.*, Case No. 5D09-4639 (Fla. 5th DCA *2010 – question certified to Fla. Sup. Court)* (challenge to bar on providing of Independent Services to youth who exit care in non-relative placements), *Florida Dept. of Child. & Families in Re Matter of Adoption of X.X.G and N.R. G.*, Case no. 3D-08-3044 (Fla. 3d DCA 2009) (challenge to the ban on gay adoption), *Vaught v. State of Florida, Agency for Health Care Administration*, Case No. 1D-07-2282 (Fla. 1st DCA 2008) (addressing the right of foster youth to obtain access to skilled nursing care), *Hadi v. Gievers*, Case No. 1D06-5852 (Fla. 1st DCA 2007) (addressing right of children and their counsel to obtain dependency records), *Woodward v. Jupiter Christian School*, Case No. SC05-1986 (Fla. 2007) (addressing need for youth to have confidential communications with counselors), *F.G. v. APD*, Case No. SC06-240 (Fla. 2006) (addressing right of trial court to subpoena state agency to provide information about child), *A.R. v. APD*, Case

No.1D05-5150 (Fla.1st DCA 2006) (addressing the rights of children in foster care to receive developmental services), *F.L.M. v. DCF*, 912 So. 2d 1264, (Fla. 4th DCA 2005) (addressing abandonment status of orphaned child for purposes of seeking lawful permanent resident status as Special Immigrant Juvenile), *DCF v. T.R.*, 906 So.2d 335 (Fla. 4th DCA 2005) (addressing eligibility requirements for foster care subsidized independent living program benefits under state and federal law), *S.C. v. GAL*, 845 So.2d 953 (Fla. 4th DCA 2003) (addressing a foster child's right to assert the psychotherapist-patient privilege to prevent a court-appointed guardian ad litem from having access to records covered by the privilege), *A.Y. v. Regier*, Case No. 2003-CA-159 (2nd Jud. Cir. 2003) (mandamus action addressing a child's right to retain independent counsel and counsel's right to access the child's confidential DCF records), *DCF v. In Re C.K.*, 851 So.2d 206 (Fla. 3d DCA 2003) (addressing the juvenile court's retention of jurisdiction over young adults who receive foster care services past the age of 18 from DCF), and *DCF v. Statewide Advocacy Council*, 884 So.2d 1162 (Fla. 2d DCA 2004) (addressing the authority of the Statewide Advocacy Council to obtain confidential records of DCF clients as part of its legislative mandate to investigate allegations of constitutional and human rights abuses or deprivations).