

## **BUSINESS LITIGATION AND TRADE REGULATION NEWS**

### **Class Action Law Update**

The Florida legislature passed Committee Substitute for House Bill 7259, also known as Florida's Class Action Reform Act (FCARA), aimed at making significant changes to a claimant's ability to sue and recover damages in class action suits in Florida.

#### Capacity to Sue

Currently, Florida does not limit class membership to Florida residents in class actions filed in Florida state courts.<sup>1</sup> FCARA will limit membership in any class action filed in Florida state courts to Florida residents. However, class membership may include nonresident claimants if:

- The claim is recognized within their state of residence;
- The claim is not time barred; and
- They cannot assert their rights because their state of residence lacks personal jurisdiction over the defendant.

Additionally, nonresidents could be class members if the conduct giving rise to the claim occurred in or emanated from Florida.

#### Damages

Florida only required proof of nominal damages for recovery of monetary relief in class actions. FCARA now requires class action claimants to prove actual damages to

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<sup>1</sup> However, the Third District Court of Appeal in R.J. Reynolds Tobacco Company v. Engle, 672 So. 2d 39 (Fla. 3d DCA 1996) ruled that the class in that case, involving over one million members, should be restricted to Florida residents.

maintain a class action lawsuit to recover statutory penalties under Chapters 320 (motor vehicle license), 501 (consumer protection), 520 (retail installment sales), and 521 (motor vehicle lease disclosure), Florida Statutes.

FCARA does not limit, however, class claimants from seeking non-monetary relief (e.g., injunctive relief, orders or declaratory relief, and orders or judgments enjoining wrongful conduct) regardless of whether the class action claimants can prove actual monetary damages. Furthermore, FCARA does not limit the Attorney General's ability to bring a class action for the recovery of statutory penalties if authorized by law. Finally, FCARA does not apply to any class action lawsuits involving federal or state civil rights laws.

Upon signature by the Governor, FCARA will go into effect on July 1, 2006.

For more information, please contact Chris Coutroulis at 813.229.4301 or

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