No. 122487

In the

Supreme Court of Illinois

PEOPLE *EX REL.*
SCHAD, DIAMOND & SHEDDEN, P.C.,

Relator-Appellant,

v.

MY PILLOW, INC.,

Defendant-Appellee.

On Petition for Leave to Appeal from the Appellate Court of Illinois,
First Judicial District, No. 1-15-2668.
There Heard on Appeal from the Circuit Court of Cook County, Illinois,
County Department, Law Division, No. 12 L 7874.
The Honorable Thomas R. Mulroy, Judge Presiding.

REPLY BRIEF OF RELATOR-APPELLANT

STEPHEN B. DIAMOND
(sdiamond@lawdiamond.com)
STEPHEN B. DIAMOND, P.C.
150 North Michigan Avenue, Suite 800
Chicago, Illinois 60601
(312) 939-6280

MICHAEL W. RATHSACK
(mrathsack@rathsack.net)
10 South LaSalle Street
Suite 1420
Chicago, Illinois 60603
(312) 726-5433

TONY KIM
(tkim@lawkbllp.com)
MATTHEW BURNS
(mburns@lawkbllp.com)
KIM & BURNS LLP
150 North Michigan Avenue, Suite 800
Chicago, Illinois 60601
(312) 554-8403

DAVID A. GENELLY
(dgenelly@vgmlaw.com)
VANASCO, GENELLY & MILLER
33 North LaSalle Street
Suite 2200
Chicago, Illinois 60602
(312) 786-5100

Attorneys for Schad, Diamond & Shedden, P.C.

E-FILED
4/16/2018 3:55 PM
Carolyn Taft Grosboll
SUPREME COURT CLERK

ORAL ARGUMENT REQUESTED

COUNSEL PRESS · (866) 703-9373 PRINTED ON RECYCLED PAPER

ARGUMENT

I. The plain language of the Act entitles a relator law firm to recover attorneys' fees generated by its own employees.

Since the adoption of the False Claims Act in 1991, the fees provisions state relator "shall receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs." 740 ILCS 175/4(d)(1) and (2). Departing from the Federal False Claims Act, the legislature included a provision for the State to receive attorneys' fees when it intervened in a relator's action. The legislature reiterated this policy of allowing fees in 2010 by expanding the fees provisions to add a fees award for the State when it initiates a false claims action.

The legislature's emphasis on requiring a False Claims Act violator to pay fees incurred in prosecuting the violator was part of its effort to encourage such actions to prevent tax fraud and bolster the public purse. The legislature sets public policy. *Phoenix Ins. Co. v. Rosen*, 242 Ill. 2d 48, 55-56 (2011). There is no need for courts to interpret public policy when, as here, the legislature has set that policy. The public policy expressed as to fees in this Act supplants the public policy concerns in *Hamer v. Lentz,* 132 Ill. 2d 49 (1989) regarding the award of attorneys' fees under FOIA, a much different statute.

SUBMITTED - 891707 - Tony Kim - 4/16/2018 3:55 PM

A. The text and history of the Act demonstrate the legislature's intent that the party that does the work is entitled to attorneys' fees regardless of whether the attorneys are in-house or outside counsel.

The Act states it plainly: the party that does the work has a right to attorneys' fees after a recovery. The legislature, rather than copy the Federal Act that does not give the government attorneys' fees, emphasized a different public policy by twice granting the State the right to attorneys' fees. This is the Act's major difference from the Federal False Claims Act. As My Pillow admits, "the Act specifically authorizes fees for the Attorney General's attorneys," as well as for relators. (Def. Br. at 41.) Relator should be treated the same as the State, not differently. As this Court held, "sections of the same statute should also be considered *in pari materia*, and each section should be construed with every other part or section of the statute to produce a harmonious whole." *Land v. Board of Education*, 202 Ill. 2d 414, 422 (2002). Comparing the Act's fees provisions for relators with those for the State demonstrates that relators, including this relator, are entitled to their fees.

When it enacted the Whistleblower Reward and Protection Act in 1991, the legislature authorized the Attorney General to recover attorneys' fees from the defendant when it elected to proceed with a *qui tam* action:

SUBMITTED - 891707 - Tony Kim - 4/16/2018 3:55 PM

> If the State proceeds with an action brought by a person under subsection (b) . . . The State shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred by the Attorney General, **including reasonable attorneys' fees and costs**, and the amount received shall be deposited in the Whistleblower Reward and Protection Fund created under this Act.

740 ILCS 175/4(d)(1)(West 1991) (emphasis added).

The legislature expanded the fees provisions in July 2010 —19 years later—to enable the State to recover attorneys' fees when the Attorney General initiates an action:

> The State shall receive an amount for reasonable expenses that the Court finds to have been necessarily incurred by the Attorney General, **including reasonable attorneys' fees and costs.** All such expenses, fees, and costs shall be awarded against the Defendant.

740 ILCS 175/4(a)(West 2010) (emphasis added). Because the Attorney General wanted fees for the work of its own lawyers, the 2010 amendment was "an initiative of the Attorney General's" in the General Assembly. 96th Ill. Gen. Assem., House Proceedings, March 23, 2010, at 66 (statements of Representative Burns); 96th Ill. Gen. Assem., Senate Proceedings, April 29, 2010, at 77 (statements of Senator Shoenberg).

Notably, a draft of the 2010 amendment also would have entitled the State to attorneys' fees even when the State declined to intervene in a *qui*

SUBMITTED - 891707 - Tony Kim - 4/16/2018 3:55 PM

tam action. 96th Ill. Gen. Assem., House Bill 5951, 2010 Sess. Elimination of this provision in the final bill confirms the legislative intent to provide fees to the party performing the legal work needed to defeat efforts to cheat on sales tax. The State receives attorneys' fees for a recovery under the Act if it initiates an action or if it intervenes; a successful Relator receives attorneys' fees if it initiates the action and the State intervenes or if the State declines but allows Relator to proceed with the action. The only time the State does not get fees is when it is does not do the work.

The appellate court took a different tack. It disregarded the Act's broad statutory fee language, preferring instead to extend the public policy considerations from *Hamer v. Lentz,* 132 Ill. 2d 49 (1989) and *Uptown People's Law Ctr. v. Dep't of Corr.*, 2014 IL App (1st) 130161 interpreting the FOIA, a much different statute. This was error because it upended the legislature's intent to provide full fees so as to encourage prosecution of businesses who do not pay sales taxes. "The responsibility for the wisdom of legislation rests with the legislature, and courts may not rewrite statutes to make them consistent with the court's idea of orderliness and public policy." *Citibank, N.A. v. Ill. Dep't of Revenue*, 2017 IL 121634 ¶ 70.

The appellate court labeled a statutory fees award to Relator for its contingent work a "double recovery" even though the work performed to

SUBMITTED - 891707 - Tony Kim - 4/16/2018 3:55 PM

earn the fees was undisputed. (RA017 ¶ 132.)[1] My Pillow calls it a windfall. (Def. Br. at 8.) It is neither a double recovery nor a windfall, but instead the logical outcome of the legislative mandate. In a similar context this Court answered: "Whether a windfall results in this circumstance – and it is far from clear that it does where tax is properly paid on the selling price – is not for us to decide." *Citibank*, 2017 IL 121634 ¶ 70.

B. The Act entitles relator to "reasonable attorneys' fees" that, unlike expenses, are not required "to have been necessarily incurred."

Relator is entitled to "an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs." 740 ILCS 1754(d)(2). My Pillow misreads the Act to limit Relator to attorneys' fees "necessarily incurred". (Def. Br. at 16-17.) The Act has no such requirement. The Act does not say "Relator shall also receive an amount for reasonable expenses, attorneys' fees and costs which the court finds to have been necessarily incurred."

This Court emphasizes statutory language controls: "In construing the meaning of a statute, this court's primary objective is to ascertain and give effect to the intent of the legislature. In that regard, the language of

[1] "RA" refers to the appendix to Relator's Brief.

SUBMITTED - 891707 - Tony Kim - 4/16/2018 3:55 PM

the statute provides the best indication of the legislature's intent." *Citibank,* 2017 IL 121634 ¶ 39.

The plain language of the statute entitles Relator to reasonable attorneys' fees without a requirement they be necessarily incurred. This Court held, "Under the principle of statutory construction known as the last antecedent doctrine, relative or qualifying words or phrases in a statute serve only to modify words or phrases which are immediately preceding and do not modify those which are more remote." *Bowman v. American River Transp. Co.*, 217 Ill. 2d 75, 83 (2005). Thus, the qualifying words "necessarily incurred" only modify the immediately preceding "expenses". Similarly, the qualifying word "reasonable" only modifies "attorneys' fees and costs". *See also In re E.B.*, 231 Ill. 2d 459, 467 (2008).

II. Relator neither waived reliance on *Scachitti* nor violated the Rules of Professional Conduct.

A. Relator relied on *Scachitti* in the circuit court and the appellate court. There is no basis for My Pillow's waiver argument.

My Pillow contends that Relator never relied below on *Scachitti v. UBS Fin. Servs.,* 215 Ill. 2d 484 (2005). My Pillow overlooks that the circuit court's award of fees to Relator was based on its award of fees to Relator in *State of Illinois ex rel. Schad, Diamond, & Shedden P.C. v. FC Organizational,* 11

SUBMITTED - 891707 - Tony Kim - 4/16/2018 3:55 PM

L 10330, Cir. Ct. Cook County (Jan. 15, 2013). (RA024.) In *FC Organizational*, the court held Relator was entitled to attorneys' fees for the work of its own attorneys because "an organization, such as Schad, Diamond & Shedden, [P.C.] is distinct from a *pro se* litigant." (RA028.) The court cited six pages of *Scachitti* as the basis for its fee award. (*Id.* (citing *Scachitti*, 215 Ill. 2d at 508-513).) Relying on *Scachitti*, *FC Organizational* concluded Relator was entitled to fees because it "did the majority of the legal work":

> While the State remained a real party in interest, the relator did the majority of the legal work in this matter as the State had originally declined to intervene in this action. Therefore, relator is entitled to attorneys' fees.

(*Id.*)[2]

Scachitti appeared again in Relator's appellate brief where Relator relied on *FC Organizational,* which had relied on *Scachitti*. (Relator's Brief at 15.) Relator's repeated discussion of *Scachitti* at the appellate court oral argument further confirms My Pillow's waiver argument is not well-taken:

> THE COURT: So can you really -- even though Judge Mulroy says [you represent the State.] Isn't that really not actually accurate?

---

[2] In *FC Organizational* the State limited its work to intervention at the very end to impose a settlement.

SUBMITTED - 891707 - Tony Kim - 4/16/2018 3:55 PM

> MR. DIAMOND: Well, it is accurate because if he sides with *Scachitti* versus *UBS*. And when you go back and look at the *Scachitti* decision, they, in upholding the constitutionality of the False Claims Act, the Supreme Court said, "What is important here is the Relator conducts the action, but the Attorney General controls it." And the control here is when you see this first filed the state can intervene, if they want to; they also can dismiss it.

(Tr. of appellate argument at 33, May 11, 2017; audio accessible at http://multimedia.illinois.gov/court/AppellateCourt/Audio/2017/1st/051117_1-15-2668.mp3). Relator emphasized the State's control:

> MR. DIAMOND: Absolutely, because the following upon *Scachitti* said, "Look, the state can come over at any time. The state can [settle or dismiss] a case.["]

(Tr. at 35.)

Relator argued *Scachitti* distinguished this case from *Uptown*:

> MR. DIAMOND: It's *Scachitti*, *S-c-a-c-h-i-t-t-i* versus *UBS*.
>
> THE COURT: All right.
>
> MR. DIAMOND: That is -- it's the only Illinois Supreme Court case on the False Claims Act. And it says the litigation is conducted by the Relator, but it's controlled by the Attorney General.
>
> [U]nder *Scachitti* the Relator here proceeded on behalf of the state. And I think that's a very major difference between this case and *Uptown*.

SUBMITTED - 891707 - Tony Kim - 4/16/2018 3:55 PM

(Tr. at 41.) My Pillow's waiver argument is unfounded.

B. The Rules of Professional Conduct permitted one of Relator's counsel to testify on uncontested issues.

My Pillow presents an incorrect account of the witnesses at trial. My Pillow wrongly states Stephen Diamond was Relator's "key witness" and "necessary witness". (Def. Br. at 35, 39, 48.) Relator did not list or call Stephen Diamond as a witness. Only My Pillow called Stephen Diamond as a witness. (R. C01285.) After an initial ten pages of questions about Relator's untaxed transactions with My Pillow, Judge Mulroy asked:

> THE COURT: Let me just ask you, Ms. Battin. Is any of this contested?
>
> MS. BATTIN: I'm not sure. We could ask globally.

(R. C01295.) My Pillow followed with questions about the third amended complaint, leading Judge Mulroy to inquire:

> THE COURT: This is probably something I can do myself.
>
> MS. BATTIN: Okay. Yeah, that's a good point. That's a good point.

(R. C01299.) That was the extent of Diamond's testimony. My Pillow never objected to Stephen Diamond being an attorney for Relator and then being called as a witness by My Pillow before, during, or after the trial, nor in the appellate court. Relator did not violate Rule 3.7.

SUBMITTED - 891707 - Tony Kim - 4/16/2018 3:55 PM

Besides Stephen Diamond, Relator's attorneys at trial were Tony Kim and David Kim. Tony Kim was not a witness. David Kim testified on behalf of Relator as to damages and penalty calculations based on My Pillow's sales and tax discovery responses. (R. C01259 - C01284.) My Pillow objected to Relator's exhibits only on the basis they contained legal conclusions, an objection the court overruled. (R. C01281.) The exhibits were admitted and the circuit court acknowledged damages were $221,379 before trebling, the exact damages it incorporated into the final judgment. (RA008-9.) My Pillow never objected to David Kim's testimony and Judge Mulroy, an experienced jurist, raised no issue. Rule 3.7 expressly permits such testimony:

> (a) A lawyer shall not act as advocate at a trial in which the lawyer is likely to be a necessary witness unless:
>
> (1) the testimony relates to an uncontested issue;

Ill. R. Prof'l Conduct (2010) R. 3.7 (eff. Jan. 1, 2010). The Committee Comments state "Paragraph (a)(1) recognizes that if the testimony will be uncontested, the ambiguities in the dual role are purely theoretical." Ill. R. Prof'l Conduct (2010) R. 3.7, Committee Comments (eff. Jan. 1, 2010). Any ambiguities in David Kim's dual role as attorney and witness were purely theoretical and Rule 3.7 did not bar his testimony.

SUBMITTED - 891707 - Tony Kim - 4/16/2018 3:55 PM

III. The State downplays its "complete control" over Relator and attempts to create a new test for awarding attorneys' fees that is not authorized by the Act.

A. The State concedes a self-represented relator is entitled to attorneys' fees but creates a new standard that disregards the plain language of the Act, *Scachitti* and the facts of this case.

The State *concedes* the Act entitles a self-represented relator to receive attorneys' fees under the Act. (State Br. at 12.) However, the State contends Relator should not get attorneys' fees because its attorneys were not sufficiently independent. (*Id.*) The State thus creates a new standard: the trial court must conduct an evidentiary hearing "to scrutinize the relationship of the firm's attorneys to the relator to determine whether sufficient independence exists." (*Id.*) The State's new standard flies in the face of the legislature's plainly stated intent that a relator "shall receive" an amount for "reasonable attorneys' fees and costs." 740 ILCS 175/4(d)(1) and (2); *see Citibank,* 2017 IL 121634 ¶ 39 ("the language of the statute provides the best indication of the legislature's intent.") This "sufficient independence" standard is unworkable, will create chaos for the courts and cannot replace the statutory mandate requiring the tax miscreant to finance the prosecution its misconduct made necessary.

SUBMITTED - 891707 - Tony Kim - 4/16/2018 3:55 PM

Objecting to Relator's fees for the first time in its *amicus* brief, the State attempts to downplay its power by arguing it did not closely scrutinize Relator's actions throughout the litigation. But whether the State chose to be actively or passively involved has no impact on its "complete control" of a *qui tam* action even when it declines to intervene. 215 Ill. 2d at 512. This Court noted in *Scachitti* that, as the entity vested with "complete control", the State decides how involved it wants to be in the litigation while Relator remains "completely subordinate to the Attorney General at all times." *Id.*

The State's conduct here shows it exercised complete control. As the Act required, Relator brought the action "for the person and the State," and "in the name of the State." 740 ILCS 175/4(b)(1). The State reviewed Relator's disclosures and requested that the court enter an order authorizing Relator to proceed. (RA022.) In addition to receiving every pleading, the State attended every deposition. (RA022; Supp. R. C00256, C00259.) No one disputes that attorneys from the Attorney General's special litigation bureau attended the trial. The State relied on Relator to conduct the action on behalf of the State and Relator, exactly as the Act provides. 740 ILCS 175/4(c)(3).

SUBMITTED - 891707 - Tony Kim - 4/16/2018 3:55 PM

When the State wanted to get involved, it did. The State became heavily involved in the post-trial dispute over whether damages were trebled before or after My Pillow paid some back taxes on the eve of trial. The State twice filed memoranda regarding the treble damages issue. (R. C1895; R. C2103.) It did that *without seeking leave to intervene*, evidencing that both it and the circuit court viewed it as a participant. Neither Relator nor My Pillow objected to that further involvement. The court then increased the treble damages from $343,227 to $557,167. (RA008, 10-11.) The appellate court affirmed the judgment on every issue of liability and damages except for Relator's attorneys' fees.

The State's concern about actions by Relator impinging on the State's resources sells short its own power. The State intervened in or authorized Relator to proceed with every action Relator has filed, implicitly acknowledging that all the cases were meritorious. The State then exercised its complete control, settling or dismissing a large number. The State never claimed it was burdened and does not explain how it would be burdened in any such future case. As in all the prior cases, nothing here impinged on the State's resources. To the contrary, the record in all these cases shows that Relator lent itself as a resource to the

SUBMITTED - 891707 - Tony Kim - 4/16/2018 3:55 PM

State just as the legislature intended and its efforts paid a significant dividend to the State.

B. The State misappropriates "golden mean" from public disclosure case law, an issue unrelated to attorneys' fees.

A "golden mean" under the public disclosure bar has nothing to do with whether a relator is entitled to attorneys' fees and expenses under the Act.[3] The public disclosure bar, as explained by the decisions cited by the State, originated after a relator read an indictment in a newspaper and brought a Federal false claims action based on it. The Supreme Court upheld the false claims action even though it was a "quintessential 'parasitic' lawsuit." *Graham County Soil & Water Conservation Dist. v. U.S. ex rel. Wilson*, 559 U.S. 280, 293-294 (2010) (citing *U.S. ex rel. Marcus v. Hess*, 317 U.S. 537 (1943)). This led to a major revision of the Federal False Claims Act in 1943 that erected the "government knowledge bar" *i.e.* if the government had any evidence or information about the fraud when the action was filed, no relator could bring a false claims act case. *Id.*

---

[3] The State conflates the public disclosure bar with the original source exception to the public disclosure bar. According to the State, the original source provision "permits dismissal of a false claims action." (State Br. at 11.) In fact a relator who is an original source overcomes the public disclosure bar and dismissal is forbidden. 740 ILCS 175/4(e)(4)(A) and (B).

SUBMITTED - 891707 - Tony Kim - 4/16/2018 3:55 PM

In 1986 Congress again overhauled the public disclosure provision, attempting to strike a balance between the relator who brings valuable new information to a *qui tam* lawsuit versus one who simply reads about it in the newspaper. Congress was "seeking the golden mean between adequate incentives for whistle-blowing insiders with genuinely valuable information and discouragement of opportunistic plaintiffs who have no significant information to contribute of their own." *Graham*, 559 U.S. at 294 (citing *U.S. ex rel. Springfield Terminal Ry. Co. v. Quinn*, 14 F.3d 645, 649 (D.C. Cir. 1994)). *Springfield Terminal* is the source of the golden mean catch phrase, a maxim unrelated to attorneys' fees.

Encouraging meritorious false claims actions and discouraging parasitic lawsuits has nothing to do with attorneys' fees. This appeal is not about balancing competing interests and has nothing to do with the golden mean. Relator provided the State with valuable information, conducted the action and obtained a judgment against My Pillow for unpaid taxes on more than $3 million of revenue. The public disclosure bar was not at issue.

C. Prior decisions have rejected the Chamber of Commerce's arguments.

The Chamber of Commerce *amicus* argues "It is the Illinois Department of Revenue's job to monitor businesses and identify tax

SUBMITTED - 891707 - Tony Kim - 4/16/2018 3:55 PM

infractions to assure compliance with tax laws," and that "The Illinois Department of Revenue has the duty to administer and enforce tax law but Diamond has interfered with that duty." (Chamber Br. at 1, 3.) The appellate court rejected that argument in *State ex rel. Beeler, Schad & Diamond, P.C. v. Ritz Camera Ctrs., Inc.*, 377 Ill. App. 3d 990, 1006 (1st Dist. 2007). *Ritz* held that "[t]he Department is not the sole entity authorized to assess and collect use tax when evidence of a defendant knowingly generating a false record or statement to avoid payment of tax exists." *Id.* *Ritz* concluded: "The allegations here relate to the intent underlying defendants' alleged creation of false records and statements, which is an area that does not require the Department's specialized knowledge and is an area that the Attorney General is more than competent to address." *Id.* at 1008.

The Chamber of Commerce wants to eliminate Relator's statutory right to fees in the name of the "common good." Whatever else can be said about the Chamber's definition of the common good, the task of defining it is the role of the legislature, not the courts and certainly not the Chamber of Commerce: "[I]mproving the common good is supposed to be the ultimate objective of every law the General Assembly enacts." *Metzger v, DaRosa*, 209 Ill. 2d 30, 48 (2004) (Rarick, J. dissent).

SUBMITTED - 891707 - Tony Kim - 4/16/2018 3:55 PM

Conclusion

The bottom line is that if the legislature had wanted to limit the attorneys' fees available to relators in the manner sought by My Pillow, it could have readily done so. It elected not to do that but instead provided for fees in very broad terms. The Act has been construed in that manner for many years, beginning before the legislature's last re-examination of the Act. If change is desired, any such proposal should be made to and left in the hands of the legislature.

Relator Schad, Diamond & Shedden, P.C. requests the opinion below reversing the award of attorneys' fees for the work of its attorneys be reversed and that this matter be remanded for further proceedings in the circuit court.

Respectfully submitted,

/Stephen B. Diamond
One of Relator's Attorneys

Dated: April 16, 2018

Stephen B. Diamond (sdiamond@lawdiamond.com)
Stephen B. Diamond, P.C.
150 North Michigan Avenue, Suite 800
Chicago, Illinois 60601
(312) 939-6280

SUBMITTED - 891707 - Tony Kim - 4/16/2018 3:55 PM

Michael W. Rathsack (mrathsack@rathsack.net)
10 South LaSalle Street, Suite 1420
Chicago, Illinois 60603
(312) 726-5433

Tony Kim (tkim@lawkbllp.com)
Matthew Burns (mburns@lawkbllp.com)
Kim & Burns LLP
150 North Michigan Avenue, Suite 800
Chicago, Illinois 60601
(312) 554-2944

David A. Genelly (dgenelly@vgmlaw.com)
Vanasco, Genelly & Miller
33 North LaSalle Street, Suite 2200
Chicago, Illinois 60602
(312) 786-5100

SUBMITTED - 891707 - Tony Kim - 4/16/2018 3:55 PM

CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this reply brief, excluding the pages or words containing the Rule 341(d) cover, the Rule 341(c) certificate of compliance and the certificate of service is 18 pages.

/s Stephen B. Diamond

SUBMITTED - 891707 - Tony Kim - 4/16/2018 3:55 PM

NOTICE OF FILING and PROOF OF SERVICE

In the Supreme Court of Illinois

STATE OF ILLINOIS EX REL. SCHAD, DIAMOND & SHEDDEN, P.C.,	)	
Relator-Appellant,	)	No. 122487
v.	)	
MY PILLOW, INC.,	)	
Defendant-Appellee.	)	

The undersigned, being first duly sworn, deposes and states that on April 16, 2018, there was electronically filed and served upon the Clerk of the above court the Reply Brief of Relator-Appellant and that on the same day, a pdf of same was e-mailed to the following counsel of record:

SEE ATTACHED SERVICE LIST

Within five days of acceptance by the Court, the undersigned states that he will send to the above court thirteen copies of the Reply Brief of Appellant bearing the court's file-stamp.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.

/s/ Tony Kim
Tony Kim

SUBMITTED - 891707 - Tony Kim - 4/16/2018 3:55 PM

SERVICE LIST

Catherine A. Battin
Daniel Campbell
McDermott Will & Emery LLP
227 West Monroe Street
Chicago, IL 60606
(cbattin@mwe.com)
(dcampbell@mwe.com)

Charles F. Godbey
Harpreet K. Khera
Assistant Attorneys General
Special Litigation Bureau
Office of the Illinois Attorney General
100 West Randolph Street, 13th Floor
Chicago, IL 60601
(cgodbey@atg.state.il.us)
(hkhera@atg.state.il.us)

David S. Ruskin
David A. Hughes
Horwood Marcus & Berk Chartered
500 West Madison Suite 3700
Chicago IL 60661
(druskin@hmblaw.com)
(dhughes@hmblaw.com)

Lisa Madigan, Attorney General
David L. Franklin, Solicitor General
Brett E. Legner, Deputy Solicitor General
Office of the Illinois Attorney General
100 West Randolph Street, 12th Floor
Chicago, IL 60601
(civilappeals@atg.state.il.us)
(blegner@atg.state.il.us)

SUBMITTED - 891707 - Tony Kim - 4/16/2018 3:55 PM