

No. 08-113

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

AT&T MOBILITY LLC and AT&T MOBILITY CORPORATION,
Petitioners,

v.

CHARLENE SHORTS,
Respondent-Defendant and Counterclaim Plaintiff.

**THE CHAMBER OF COMMERCE OF THE UNITED STATES OF
AMERICA’S MOTION FOR LEAVE TO FILE BRIEF AS *AMICUS
CURIAE* IN SUPPORT OF PETITIONERS**

The Chamber of Commerce of the United States of America (“the Chamber”) hereby moves this Court, pursuant to Federal Rule of Appellate Procedure 29 and Fourth Circuit Rule 29(b), for leave to file a brief as *amicus curiae* in support of Petitioners.¹ For the following reasons, the Chamber’s motion should be granted:

¹ Counsel for the Chamber attempted to contact counsel for Respondent for leave to file an amicus brief before filing this motion but they were unable to communicate directly.

1. The Chamber is the world's largest business federation, with an underlying membership of more than three million companies and professional organizations of every size, in every industry sector, and from every region of the country. The Chamber is well positioned to assist the Court in evaluating the parties' arguments because the Chamber regularly advances the interests of its members in courts throughout the country on issues of critical concern to the business community, and has participated as *amicus curiae* in numerous cases addressing jurisdictional issues, including *Kircher v. Putnam Funds Trust*, 547 U.S. 633 (2006).

2. The Chamber's members are frequently defendants in large interstate class actions in which the existence of federal jurisdiction under the Class Action Fairness Act ("CAFA") is at issue. Accordingly, an important question presented by this appeal – *i.e.*, whether counterclaim defendants are barred from invoking CAFA's removal provisions – is of significant and widespread importance to the Chamber and its members. In addition, the Chamber was involved – on behalf of its members – in organizing support for the class action reforms reflected in CAFA. As a result, the organization has a wealth of experience in interpreting the jurisdictional requirements set forth in CAFA and is uniquely suited to provide the Court with significant guidance in addressing the policy goals and intent of the legislation.

3. The Chamber and its members have a strong interest in seeking reversal of the trial court's ruling, which prohibits counterclaim defendants from invoking CAFA's removal provisions. The trial court's opinion, if left undisturbed, would have the practical effect of allowing the plaintiffs' bar to circumvent CAFA simply by bringing class actions as counterclaims. Such a result would have far-reaching effects on companies that do business in the United States, many of which are members of the Chamber. In particular, because such counterclaim class actions are likely to be brought in the context of debt collection proceedings, the trial court's ruling would affect those members of the Chamber who frequently are forced to initiate debt collection actions, including, among others, telecommunications providers, credit card companies, and utility companies.

4. For the foregoing reasons, the Chamber respectfully submits that it is well-qualified to assist the Court in evaluating the arguments raised by the parties in this case.

WHEREFORE, the Chamber of Commerce of the United States of America respectfully requests that this Court grant it leave to appear as *amicus curiae* and to file a brief in support of Petitioners. If the motion is granted, the Chamber requests that the Court file and consider the attached brief.

Respectfully submitted by:

August 14, 2008

/s/ John H. Beisner

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CERTIFICATE OF SERVICE

I hereby certify that, on the 14th day of August, 2008, a true and accurate copy of the foregoing Chamber of Commerce of the United States of America's Motion For Leave To File Brief as *Amicus Curiae* in Support of Petitioners was filed with the Clerk of the Court using the CM/ECF System, which will send notice of such filing to the following registered CM/ECF users:

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Dated: August 14, 2008

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