

NO. 06-1347

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IN THE SUPREME COURT OF ARKANSAS

2007 FEB -7 P 3:25  
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**BOBBIE FAY GRAMMER AND, SHERYL  
LAREY, INDIVIDUALLY, AND ON BEHALF  
OF ALL SIMILARLY SITUATED PERSONS,**

v.

**SUNBEAM PRODUCTS, INC.,**

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**On Appeal From The Circuit Court of Miller County**

**Honorable Jim Hudson, Presiding Judge**

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Motion To File Brief By The Chamber Of Commerce Of The

United States Of America As *Amicus Curiae*

In Support Of Appellant

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Counsel for *Amicus Curiae*

The Chamber of Commerce of the United States of America (“the Chamber”) hereby moves, pursuant to Rules 2-1 and 4-6(a) of the Supreme Court and Court of Appeals for the State of Arkansas, for leave to file the attached brief as *amicus curiae* in support of Appellants. The attached brief is hereby tendered this date. In support of this motion, the Chamber states that its brief will be of benefit to the Court and is necessary in this case because:

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 class certification. These cases include *Amchem Products, Inc. v. Windsor*, 521 U.S. 591 (1997), *State Farm Mutual Auto Insurance Co. v. Speroni*, 525 U.S. 922 (1998), and *Castano v. American Tobacco*, 84 F.3d 734 (5th Cir. 1996).

2. The Circuit Court’s August 15, 2006 Order in this action holds that class action status may be granted to all plaintiffs nationwide alleging fraud-based claims arising from their purchase of an allegedly defective product. The Circuit Court’s order implies that certification of a nationwide class is appropriate because the law of a single state will likely govern the claims of all purchasers across the country. Alternatively, the Circuit Court’s decision suggests that, even if the laws of multiple states apply to class members’ claims, such legal variations do not preclude class certification.

3. The Circuit Court's class certification order will have far-reaching effects on companies that do business in Arkansas, many of which are members of the Chamber. Allowing the general classwide findings reached in this case to stand will threaten the ability of Arkansas businesses to fairly defend themselves against potentially bankrupting lawsuits by violating their due process and jury trial rights. It will also impose substantial costs on companies that do business in Arkansas – both in terms of increased litigation expenses and by imposing a competitive disadvantage vis-à-vis companies not subjected to the same litigation burdens. As previously noted, the Chamber is uniquely suited to assist this Court in its disposition of this case because the organization has a wealth of experience in class action litigation and the often untoward effects of mass tort litigation on business entities.

4. The Chamber's brief is limited to the issues decided by the Circuit Court which are before this Court on appeal. The Chamber does not seek to address new issues.

5. 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 regarding certification of purportedly common issues for classwide resolution in mass tort litigation.

#### MEMORANDUM OF AUTHORITIES

Pursuant to Rule 2-1(e), the Chamber submits as its authority for this motion:  
Rule 4-6.

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 Appellants. If granted, the Chamber requests that the Court file and consider the attached brief, which is tendered this date.

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CERTIFICATE OF SERVICE

On February 7, 2007, a copy of the foregoing was served by U.S. mail on:

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