

**In the United States Court of Appeals
for the Third Circuit**

**Nos. 08-2784, 08-2785, 08-2798, 08-2799, 08-2817, 08-2818, 08-2819,
08-2831 & 08-2881**

SHAWN SULLIVAN; ARRIGOTTI FINE JEWELRY; JAMES
WALNUM, on behalf of themselves and all others similarly situated,

Appellees

v.

DB INVESTMENTS, INC.; DE BEERS S.A.; DE BEERS
CONSOLIDATED MINES, LTD; DE BEERS A.G.; DIAMOND
TRADING COMPANY; CSO VALUATIONS A.G.; CENTRAL SELLING
ORGANIZATION; DE BEERS CENTENARY A.G.,

Appellants

On Appeal from the United States District Court for
the District of New Jersey, No. 04-cv-02819

**BRIEF OF *AMICUS CURIAE*, THE JEWELERS VIGILANCE
COMMITTEE, IN SUPPORT OF APPELLEES**

Cecilia Gardner
President, CEO and General Counsel
Jewelers Vigilance Committee
25 West 45th Street, Suite 1406
New York, NY 10036
212-997-2002

Attorney for Amicus Curiae, Jewelers Vigilance Committee

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INTERESTS OF AMICUS CURIAE

The Jewelers Vigilance Committee (“JVC”) is a non-profit trade association. Since 1917 it has informed jewelers about their legal obligations, and has advanced self-regulation in the industry. The membership of the JVC currently consists of over 1,200 individuals and entities at all levels of the trade, from manufacturers to retailers.¹

The mission of the JVC is to promote integrity in the jewelry trade through compliance with all regulations and laws pertaining to the manufacture, sale and advertising of jewelry. JVC actively monitors the jewelry industry for trade-practice compliance, and refers non-compliance to law enforcement officials when appropriate, or brings legal actions on its own if necessary. The organization also mediates disputes between jewelers and consumers and between members of the industry. JVC educates jewelers, and facilitates business practices that conform to legal mandates.

JVC’s activities also include substantial efforts on behalf of the public. Much of JVC’s work centers on legally compliant trade practices and the promotion of fair and accurate advertising, with the goal of protecting consumers by creating a level playing field. Issues relevant to the

¹ JVC members include many entities that have submitted claims to the De Beers claim fund. None of the entities in the De Beers group, the defendants in the underlying class-action lawsuit, are members of the JVC.

public are featured on JVC's website, where prospective customers are educated about legal standards and advised to purchase jewelry from JVC members. Guarding the public, and increasing consumer confidence, is integral to the operations of the JVC.

JVC's interest in the outcome of this appeal is twofold. First, the underlying allegations include violations of federal and state antitrust laws, violations of consumer protection laws, deceptive trade practices and unfair competition. As the monitor of legal compliance in the jewelry industry, for the benefit of the buying public, JVC is greatly concerned by allegations of illegality of this nature, as it harms JVC members and, ultimately, consumers. JVC actively took a role in assuring that those class members allegedly harmed by the wrongdoing alleged in this lawsuit were identified and notified. The outcome of this litigation is of considerable importance to the trade and to members of the consumer class.

Second, the essential claim in this matter is that the De Beers group of companies ("De Beers") exercised a substantial degree of control over the diamond industry during the class period. According to the allegations, the defendants exercised control that resulted in inflated diamond prices, to the detriment of all diamond purchasers. It is of paramount interest to JVC that

those allegedly hurt by De Beers' dominance in the diamond market be promptly compensated in response to their claims.

JVC does not take any position regarding the specific claims raised by appellants, such as claim limitations, procedural faults or the attorneys' fees to be awarded from the claim funds.

ARGUMENT

I. The Economic Crisis Has Caused an Urgent Need for the Prompt Payment of Settlement Claims

Current financial conditions have made it very difficult for many in the jewelry industry to remain in business. Between January 2008 and May 6, 2009 there have been approximately 120 bankruptcies of companies engaged in the jewelry industry. Many companies have avoided the expense of filing for bankruptcy by simply closing their doors. Approximately 1,140 companies went out of business in 2008. The number of such closings in 2009, through the end of April, is 586, a 22% increase compared to the first four months of 2008.²

Prompt approval of the class action settlement and payment of claims will provide a much needed economic stimulus to an industry that is reeling from a distressed economy. The bankruptcies and business failures noted

² These statistics were provided to the JVC by the Jewelers Board of Trade, an Association that offers credit information specific to the jewelry industry. *See* www.jewelersboard.com.

above have caused difficult monetary consequences for manufacturers and wholesalers who are still in business. With the payment of claims pursuant to the proposed settlement, JVC members – and many others – stand to recover at least some of what they lost as a result of the alleged control of diamond prices by the defendants during the period set out in the law suit. These claim funds, rightfully due to these entities and individuals, are expected to make a meaningful difference to the jewelry industry at a crucial time. Further delay in payment of the funds will impose considerable hardship.

II. The Significant Economic Stake of the Indirect Resellers Class Is Far Greater than the Marginal Stake of Appellants

JVC has reviewed the claims made on appeal of this matter.

Appellants are a small number of consumers with modest claims and little financial interest in the outcome of the appeal. By way of contrast, JVC represents thousands in the jewelry industry. These individuals and entities purchased billions in diamonds and diamond jewelry during the class period, and they will be directly impacted by the outcome of this appeal. The settlement approved by the Court below would allow the timely distribution of these claims to many in the jewelry trade. An industry in financial straits should not be subject to claims of comparatively little weight.

CONCLUSION

The purpose of a class action is to protect and assure the adequate compensation of class members. *In re Gen. Motors Corp. Pick-Up Truck Fuel Tank Prods. Liab. Litig.*, 55 F.3d 768, 785 (3d Cir.) (1995). In this matter, protecting class members requires the prompt distribution of claim funds. For the foregoing reasons, the district court's approval of the class action settlement in this matter should be affirmed.

Respectfully submitted,

s/ Cecilia L. Gardner
Cecilia L. Gardner, Esq.
Counsel for *Amicus Curiae*
Jewelers Vigilance Committee
25 West 45th Street, Suite 1406
New York, NY 10036
212-997-2002

COMBINED CERTIFICATIONS

I, Cecilia L. Gardner, hereby certify the following:

(1) I am a member of the Bar of the United States Court of Appeals for the Third Circuit;

(2) The text of the electronic Brief in PDF format and the text of hard copies of this Brief are identical; and

(3) The electronic version of this Brief has been checked for viruses using Symantec Endpoint Protection and has been found to contain no viruses.

s/ Cecilia L. Gardner
Cecilia L. Gardner, Esq.
Counsel for *Amicus Curiae*
Jewelers Vigilance Committee
25 West 45th Street, Suite 1406
New York, NY 10036
212-997-2002

CERTIFICATE OF SERVICE

I, JEREMY J. MURPHY, am over the age of eighteen years and am not a party to the above-referenced matter. I am an employee of Constantine Cannon LLP, 450 Lexington Avenue, 17th Floor, New York, New York 10017. I hereby certify that on this 8th day of June, 2009:

1. I caused to be sent via Federal Express one (1) original and nine (9) copies of the foregoing Brief of Amicus Curiae in Support of Appellees to this Court at the following address:

Ms. Marcia M. Waldron
Clerk, U.S. Court of Appeals for the Third Circuit
21400 United States Courthouse
601 Market Street
Philadelphia, PA 19106
(215) 597-2995

2. Hard copies of the Brief were placed in first class mail on June 8, 2009 addressed to the following individuals who have not filed a request for electronic notification:

Kristen Dishman
16 14th Avenue
Wareham, MA 02571

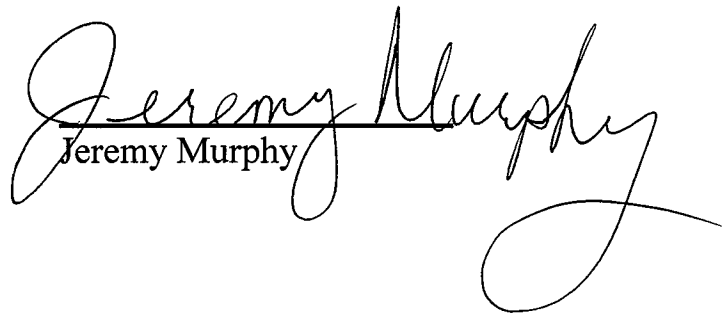
Margaret Marasco
#85
14 Lakeview Avenue
Lynn, MA 01904

Brian Mazzola
4320 Calder Avenue
Beaumont, TX 77706
Lawyer for Objectors-Appellants Linda Mathews, Brad Boozer
Maurice Kraiem
(08-2817)

Francis Ciani-Dausch, Esq.
Skadden, Arps, Slate, Meagher & Flom
1440 New York Avenue, N.W.
Washington, D.C. 20005-0000

- (3) This Brief is being served electronically upon all other counsel, who are Filing Users of the Third Circuit's CM/ECF system.

Date: June 8, 2009


Jeremy Murphy