

**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

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

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**MOTION OF THE JEWELERS VIGILANCE COMMITTEE FOR  
LEAVE PURSUANT TO F.R.A.P. 29 TO FILE AN *AMICUS* BRIEF  
SUPPORTING AFFIRMANCE OF THE DISTRICT COURT'S  
APPROVAL OF THE CLASS ACTION SETTLEMENT**

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Cecilia Gardner  
President, CEO and General Counsel  
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212-997-2002

*Attorney for Amicus Curiae, Jewelers Vigilance Committee*

The Jewelers Vigilance Committee hereby moves for an order pursuant to F.R.A.P. 29 granting it leave to file the annexed *amicus* brief in these consolidated appeals.

In support of this motion, counsel avers:

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

2. The mission of 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 industry for trade-practice compliance, and refers non-compliant behavior to law enforcement officials when appropriate, or brings legal actions 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.

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<sup>1</sup> 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.

3. 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 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.

4. 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 illegality of this nature, as it harms JVC members and, ultimately, consumers. JVC actively took a role in assuring that those 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.

5. 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.

6. 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.

7. Prompt approval of the class action settlement by this court will provide a much-needed economic stimulus to an industry that is reeling from a distressed economy. Current financial conditions have made it very difficult for many in the jewelry industry to remain in business. Several large bankruptcies have already occurred, with troubling consequences for manufacturers and wholesalers. Failures among smaller businesses have also become a regular occurrence.<sup>2</sup> With the payment of claims pursuant to

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<sup>2</sup> The Jewelers Board of Trade ("JBT") is an association that provides credit information specific to the jewelry industry. JVC is informed by Dione Kenyon, President of the JBT, that between January 2008 and May 6, 2009 there have been 120 bankruptcies in the industry. Many companies avoid the expense of filing for bankruptcy by simply closing their doors. JBT tracked approximately 1,140 companies that went out of business in 2008 but did not file. The number of such closings in 2009, through the end of April, is 586, a 22% increase compared with the first four months of 2008. See [www.jewelersboard.com](http://www.jewelersboard.com).

the proposed settlement, JVC members – and many others – stand to recover at least some of what they lost as a result of the alleged misconduct of De Beers. These funds, rightfully due 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.

8. JVC has reviewed the claims made on appeal of this matter. Appellants are a small number of consumers with modest claims and little economic 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 have a significant interest in the outcome of the appeal. The settlement approved by the Court below would allow the distribution of this long-awaited compensation to many in the jewelry trade. An industry in financial straits should not be subject to monetary claims which are, by comparison, of little weight.

9. The JVC's *amicus* brief should help the Court understand the importance of the settlement to the interests of the jewelry industry. There is no significant competing interest. The *amicus* brief is relevant in that the

purpose of a class action is to protect and assure the timely and 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, as demonstrated in JVC's *amicus* brief.

WHEREFORE, JVC respectfully requests that the Court enter an order granting JVC leave to file the annexed *amicus* brief and direct the Clerk of the Court to file same.

Respectfully submitted,

s/ Cecilia L. Gardner  
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## 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 8<sup>th</sup> day of June, 2009:

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

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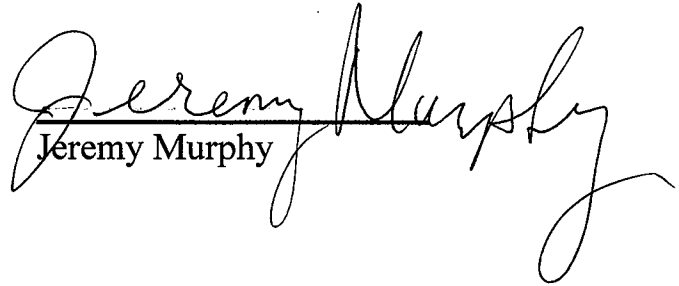
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2. This Motion is being served electronically upon all other counsel, who are Filing Users of the Third Circuit's CM/ECF system.

Date: June 8, 2009

  
Jeremy Murphy