

IN THE CIRCUIT COURT OF FAULKNER COUNTY, ARKANSAS  
SECOND DIVISION

**RICHARD SHUMATE, JR. and  
DAMON REED, on behalf of themselves  
and all similarly situated persons and entities**

PLAINTIFFS

V.

No. 23CV-2012-855

**FILED**  
DATE 1-4-16 2:40pm  
Rhonda Wharton, Clerk  
By HD DC

**CITY OF CONWAY, an Arkansas  
municipality**

DEFENDANT

NOTICE OF INTERLOCUTORY APPEAL

Notice is hereby given that Defendant, City of Conway, Arkansas, by and through undersigned counsel, files this interlocutory appeal of the certification of a class action regarding Plaintiffs' breach-of-contract claim pursuant to the Arkansas Rules of Appellate Procedure-Civil 2(a)(9) which states: "[a]n appeal may be taken from a circuit court to the Arkansas Supreme Court from . . . [a]n order *granting* or *denying* a motion to certify a case as a class action in accordance with Rule 23 of the Arkansas Rules of Civil Procedure." Ark. R. App. P. Civ.(a)(9).

Plaintiffs brought two claims in the Circuit Court against the City: illegal exaction and breach of contract. Plaintiffs' illegal-exaction claim was dismissed with prejudice in the Defendant's favor leaving only the breach-of-contract claim. However, the Circuit Court granted Plaintiffs' motion to certify a class action as to the breach-of-contract claims pursuant to Rule 23 of the Arkansas Rules of Civil Procedure and it is from that Order dated December 7, 2015, that the City takes the instant interlocutory appeal.

Defendant designates the complete Circuit Court record, including all the evidence, transcripts of all hearings and testimony, and all pleadings and rulings filed with the circuit clerk



23CV-12-855 231-23100010352-162  
RICHARD SHUMATE JR V CITY OF 3 Pages  
FAULKNER CO 01/04/2016 02:46 PM  
CIRCUIT COURT NT60

Sf

as the record on appeal. Defendant has ordered a transcript of the oral proceedings from the court reporter and made financial arrangements pursuant to Ark. Code Ann. § 16-13-513 (c).

Pursuant to Arkansas Rule of Appellate Procedure-Civil 3(e)(vi), there are no unresolved issues that need to be abandoned by the Defendant and, thus, that provision is not applicable.

Respectfully Submitted,

City of Conway, Arkansas

**DEFENDANT**

By: \_\_\_\_\_

Thomas Kieklak

Ark. Bar No. 92262

R. Justin Eichmann

Ark. Bar No. 20030145

Harrington, Miller, Kieklak, Eichmann & Brown, P.A.

4710 S. Thompson, Suite 102

Springdale, AR 72764

Michael Mosley

Ark. Bar No. 2002099

Post Office Box 38

North Little Rock, AR 72115

TELEPHONE: (501) 978-6131

FACSIMILE: (501) 978-6561

EMAIL: [mmosley@amnl.org](mailto:mmosley@amnl.org)


**CERTIFICATE OF SERVICE**

I, Thomas Kieklak, hereby certify that on this 4 day of January, 2016, that a true and correct copy of the above and foregoing has been served upon the attorney(s) of record as referenced below, via certified mail:

Honorable Judge Troy B. Braswell  
Faulkner County Justice Building  
801 Locust Street  
Conway, AR 72032

Russell Wood  
Wood Law Firm  
501 East 4<sup>th</sup> Street, Suite 4  
Russellville, AR 72801

Thomas Thrash  
Thrash Law Firm  
1101 Garland Street  
Little Rock, AR 72201

  
\_\_\_\_\_  
Thomas Kieklak, Ark. Bar No. 92262