

IN THE SUPREME COURT OF FLORIDA

CYNTHIA L. JACKSON, ET AL.,

Petitioners,

SC Case No. SC18-357

DCA Case No. 2D15-2038

L.T. Case No. 2014-CA-3217

v.

HOUSEHOLD FINANCE
CORPORATION III, ET AL.,

Respondent.

**THE AMERICAN LEGAL AND FINANCIAL NETWORK'S MOTION FOR
LEAVE TO FILE AMICUS BRIEF IN SUPPORT OF RESPONDENT**

The American Legal and Financial Network ("ALFN"), by and through the undersigned counsel and pursuant to Fla. R. App. P. 9.370(a), hereby moves this Court for leave to file an amicus curiae brief in support of Respondent Household Finance Corp. III, and states:

1. The ALFN's Interest

The ALFN is a national network of legal and residential mortgage banking professionals offering high quality educational and training resources to its member organizations. Founded in 2001, the ALFN is now the largest organization of its kind with a membership of over 250 businesses reaching more than 10,000 professionals in the mortgage servicing industry. The ALFN's membership roster includes professionals from numerous segments of the residential mortgage banking

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community, including Legal, Residential Mortgage Bankers and Investors, Risk Evaluation, Investment Research, Consulting, Land and Title, Technology and Asset Protection.

The ALFN's interest in this case arises from the enormous impact that this Court's opinion will impose upon its members, institutional lending and servicing practices, and the state of Florida. As Petitioners observe in the Initial Brief, the decision in this case will have ramifications well beyond the confines of mortgage foreclosure actions. The ALFN's concerns in this appeal include simple fairness, judicial policy, and legislative intent.

Specifically, the ALFN is concerned about the impact of a judicial decision that demands more than what is required by the plain language of § 90.803(6), Fla. Stat.; and then places this new and weightier burden on one party only—the proponent—instead of fairly shifting the burden after the proponent makes a prima face case for the application of the business records exception. Such an interpretation would needlessly increase the complexity of business record-keeping; impose significant overhead on businesses; inhibit mergers, acquisitions, new business ventures, and similar commercial opportunities; and increase and complicate litigation.

2. The Particular Issue to Be Addressed

By highlighting the differing impacts of *Maslak* and *Jackson* on the financial industry, the ALFN will address the potential consequences to its members should this Court affirm or reverse *Jackson*.

3. How the ALFN Can Assist the Court

The ALFN is represented by four Florida law firms, each of which has extensive experience representing creditors in residential mortgage foreclosure actions throughout the state of Florida. They are particularly well-versed in the practical application of the business records exception and its impact on the course of litigation. While the parties' counsel have, or will, brief the Court on the evolution of the law that precipitated the issue, counsel for the ALFN are in an exceptional position to supplement that account from the "ground level," as well as from a legislative and judicial public policy perspective.

In addition, the ALFN can speak to the significant ramifications that a reversal will have on its constituents and the state of Florida, as well as its effect on lending and loan servicing practices in this state going forward. While the ALFN recognizes that public policy considerations rest largely within the legislative realm, they nonetheless do not escape this Court's purview. *See e.g. Weiman v. McHaffie*, 470 So. 2d 682, 684 (Fla. 1985) (disapproving on "public policy grounds" Florida district court decisions requiring a lender to show impairment of security before a due-on-

sale clause is enforceable). In addition to the questions of law before this Court, critical policy considerations are also at issue. The ALFN and its counsel are in a prime position to expound upon them.

4. Whether All Parties Consent

Petitioners Cynthia and Thomas Jackson do not consent to an order granting this Motion. Respondent Household Finance Corp. III consents to an order granting this Motion.

5. Granting this Motion Will Not Delay Resolution

If given leave to do so, the ALFN will file its amicus brief in accordance with Fla. R. App. P. 9.370(c).

WHEREFORE, the American Legal and Financial Network respectfully moves this Court for leave to file an amicus brief in support of Respondent Household Finance Corp. III.

Respectfully submitted,

/s/ David Rosenberg

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of August, 2018, a true and correct copy of the foregoing has been furnished by email to:

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