



Sears, Roebuck and Co. v. Labora
Fla.App. 3 Dist.,1996.

District Court of Appeal of Florida,Third District.
SEARS, ROEBUCK AND CO., Appellant,

v.

Alexander J. LABORA, Appellee.

No. 95-2606.

Feb. 28, 1996.

Rehearing Denied April 17, 1996.

In breach of contract action against department store corporation, the Circuit Court, Dade County, [Murray Goldman](#), J., certified class, and corporation appealed. The District Court of Appeal held that: (1) class certification was proper to extent that class was limited to Florida residents and business entities, and (2) trial court acted within its discretion in ordering corporation to pay costs of notice.

Affirmed with directions.

West Headnotes

[1] Parties 287 ↪ 35.61

[287](#) Parties

[287III](#) Representative and Class Actions

[287III\(C\)](#) Particular Classes Represented

[287k35.61](#) k. In General. [Most Cited Cases](#)

In breach of contract action against department store corporation, certification of class was appropriate to extent that class was limited to Florida residents and business entities. [West's F.S.A. RCP Rule 1.220\(a\)](#).

[2] Parties 287 ↪ 35.45

[287](#) Parties

[287III](#) Representative and Class Actions

[287III\(B\)](#) Proceedings

[287k35.43](#) Notice and Communications

[287k35.45](#) k. Parties Responsible; Expense. [Most Cited Cases](#)

In breach of contract class action against department store corporation, trial court acted within its discretion in ordering corporation to initially pay cost of notice to class; order provided most economically vi-

able means of assuring efficient and cost-effective notification. [West's F.S.A. RCP Rule 1.220\(d\)\(2\)](#).

***1025** An Appeal from the Circuit Court for Dade County; [Murray Goldman](#), Judge.

Arnstein & Lehr, and [Wesley A. Lauer](#), West Palm Beach; Arstein & Lehr, and [Stanley M. Lipnick](#), and [Arthur L. Klein](#), and [Thomas P. Yardley](#), Chicago, for appellant.

Maland & Ross, and [Lauri Waldman Ross](#), Miami, for appellee.

Before [BARKDULL](#), [NESBITT](#) and [GERSTEN](#), JJ.
PER CURIAM.

Appellant, Sears, Roebuck and Co., appeals an order granting appellee Alexander J. Labora's motion for class action certification in a breach of contract action. We affirm with modification.

[\[1\]](#) The four prerequisites for class certification are numerosity, commonality, typicality, and adequate representation. [Fla.R.Civ.P. 1.220\(a\)](#). See [Broin v. Philip Morris Cos.](#), 641 So.2d 888 (Fla. 3d DCA 1994), rev. denied, 654 So.2d 919 (Fla.1995). We have carefully reviewed the record and find no abuse of discretion in the trial court's application of these criteria to grant class certification. See [Love v. General Dev. Corp.](#), 555 So.2d 397 (Fla. 3d DCA 1989).

Accordingly, we affirm the order granting class certification except to the extent that it identifies the class as including "all persons and business entities." In accordance with this Court's recent opinion in [R.J. Reynolds Tobacco Co. v. Engle](#), 672 So.2d 39 (Fla. 3d DCA 1996), we direct that the order be modified to limit the certified class to "Florida residents and business entities."

[\[2\]](#) Additionally, we find no error in the trial court's ruling that the appellant initially pay the cost of notice. See [Fla.R.Civ.P. 1.220\(d\)\(2\)](#). At this stage of the proceedings, this ruling provides the most economically viable means of assuring efficient and cost-effective notification. See [Johnson v. Plantation Gen. Hosp. Ltd. Partnership](#), 641 So.2d 58 (Fla.1994); [Frankel v. City of Miami Beach](#), 340 So.2d 463

[\(Fla.1976\).](#)

Affirmed with directions.

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