

# Supreme Court of Florida

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No. SC02-2161

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**JOHN A. CARDEGNA, et al.,**  
Petitioners,

vs.

**BUCKEYE CHECK CASHING, INC., etc.,**  
Respondent.

[May 11, 2006]

**OPINION ON REMAND**

PER CURIAM.

This Court has previously quashed the decision of the Fourth District Court of Appeal in Buckeye Check Cashing, Inc. v. Cardegna, 824 So. 2d 228 (Fla. 4th DCA 2002). See Cardegna v. Buckeye Check Cashing, Inc., 894 So. 2d 860 (Fla. 2005). Because our decision has now been reversed by the United States Supreme Court, we withdraw our prior opinion and now approve the decision of the Fourth District. See Buckeye Check Cashing, Inc. v. Cardegna, 126 S. Ct. 1204 (2006).

In the Fourth District's decision in Cardegna, the court held that a borrower's claim that a contract was void ab initio under Florida law and public policy must be resolved by arbitration where there was no separate claim that the

arbitration provision in the contract itself was unenforceable. This Court quashed and held that the dispute as to the validity of the contract must first be resolved in court before the arbitration provision could be enforced. In turn, the United States Supreme Court has reversed this Court's decision, and, in effect approved the holding of the Fourth District.

Accordingly, consistent with and pursuant to the United States Supreme Court's decision, we withdraw our previous opinion and now approve the decision of the Fourth District and disapprove of the conflicting opinion of the Fifth District in Fastfunding the Company, Inc. v. Betts, 758 So. 2d 1143 (Fla. 5th DCA 2000).

We remand this cause to the Fourth District for further proceedings consistent herewith.

It is so ordered.

WELLS, ANSTEAD, LEWIS, QUINCE, CANTERO, and BELL, JJ., concur.  
PARIENTE, C.J., recused.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION, AND  
IF FILED, DETERMINED.

Application for Review of the Decision of the District Court of Appeal - Direct  
Conflict

Fourth District - Case No. 4D01-3549

(Palm Beach County)

E. Clayton Yates, Fort Pierce, Florida, F. Paul Bland, Jr., Washington, D.C.,  
Christopher C. Casper of James, Hoyer, Newcomer and Smiljanich, P.A., Tampa,  
Florida, and Richard A. Fisher, Cleveland, Tennessee,

for Petitioner

John R. Hart of Carlton Fields, P.A., West Palm Beach, Florida, Amy L. Brown,  
and James P Wehner of Squire, Sanders and Dempsey, LLP, Washington, D.C.,  
and Pierre H. Bergeron of Squire, Sanders and Dempsey, LLP, Cincinnati, Ohio,

for Respondent

Deborah M. Zuckerman, AARP Foundation, Washington, D.C., and Lynn  
Drysdale, Florida Legal Services, Inc., Jacksonville, Florida on behalf of AARP,  
Consumer Federation of America and National Consumer Law Center; and Daniel  
S. Pearson, Lenore C. Smith, and Scott B. Newman of Holland and Knight, LLP,  
Miami, Florida on behalf of The Check Cashing Store, Inc.,

for Amici Curiae