IN THE SUPREME COURT OF THE STATE OF FLORIDA

GLOBAL TRAVEL MARKETING, INC.
d/b/a THE AFRICA ADVENTURE
COMPANY and d/b/a INTERNATIONAL
ADVENTURES LTD.,

Petitioners,

CASE NO.: SC03-1704
Lower Tribunal No.: 4D02-910

vs.

MARK A. SHEA, as Personal
Representative of the Estate
of MARK GARRITY SHEA, a deceased
minor,

Respondent.

_____/

LEGAL AID SOCIETY OF PALM BEACH COUNTY'S BRIEF AS AMICUS CURIAE FILED BY LEAVE OF COURT IN SUPPORT OF RESPONDENT

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STATEMENT OF INTEREST

The Legal Aid Society of Palm Beach County's Juvenile Advocacy Project has been representing children through court appointments and referrals from the community for ten years serving in excess of two hundred children per year. The Juvenile Advocacy Project represents these children in cases involving education, delinquency, dependency, custody, and mental health matters. Legal representation is provided in order to obtain appropriate services to meet the children's legal, psychological, educational, and residential placement needs.

The Juvenile Advocacy Project has a strong interest in this case since it implicates the courts' power to ensure that children's rights are protected as they have been historically under parens patriae jurisdiction. The outcome of this case may determine whether children will maintain that protection as they litigate controversies before the courts.

SUMMARY OF THE ARGUMENT

In reversing the trial court, the Fourth District Court of Appeal held an arbitration agreement entered into by a parent on behalf of his or her child in a commercial context is unenforceable against the child. Shea v. Global Travel

Marketing, Inc., 28 Fla. L. Weekly D2004, D2005 (Fla. 4th DCA 2003). The court found the subject arbitration agreement violated the State's public policy of protecting the rights of children. Id. at D2006. The court adopted the analysis pronounced by the Supreme Court of Colorado relying in large part on the analysis of the Supreme Courts of Washington and Utah. Id. at D2005. In Cooper v. The Aspen Skiing Co., 48 P.3d 1229 (Colo. 2002), the Colorado Supreme Court held

> Colorado's public policy affords minors significant protections which preclude parents or guardians from releasing a minor's own prospective claim for negligence. We base our holding on our understanding of Colorado's public policy to protect children as reflected by legislation protecting minors as well as decisions from other jurisdictions, which we find persuasive.

Cooper, 48 P.3d at 1232-33. The Colorado Supreme Court, along with Washington and Maine courts, rejected the argument that individual rights should succumb to that of commercial enterprise. Id. at 1232; Scott v. Pacific West Mountain Resort, 834 P.2d 6 (Wash. 1992); Rice v. American Skiing Co., No. CV-99-06, 2000 Me. Super. LEXIS 90 (Me. May 8, 2000). These states, like Florida, rely on tourism for revenue.

Florida has accorded special protections of children's rights which the courts have exercised jurisdiction to safeguard and promote. See, e.g. Attorney Ad Litem for D.K. v. The Parents of D.K., 780 So.2d 301 (Fla. 4th DCA 2001);

Gammon v. Cobb, 335 So.2d 261 (Fla. 1976); Fla. Stat. §§ 744.1012, 744.301, 744.387(2) (2002). Based on a review of Florida's public policy of protecting children, a parent cannot bind a child to an arbitration agreement. The Fourth District Court of Appeal's decision is consistent with the public policy of this State to protect the rights of children. Therefore, this Court should affirm the Fourth District Court of Appeal's decision.

ARGUMENT

I. THE PUBLIC POLICY OF PROTECTING CHILDREN'S RIGHTS AND OF MAINTAINING THE COURT'S PARENS PATRIAE JURISDICTION IS CONSISTENT WITH THE FOURTH DISTRICT COURT OF APPEAL'S HOLDING THAT A PARENT CANNOT BIND A CHILD TO AN ARBITRATION AGREEMENT.

Children's rights have been expanding steadily in scope over the years with most of the courts of this country playing a role in establishing a myriad of children's rights. Consequently, children are no longer spectators in the enforcement of their own rights.

Among the rights of children the United States Supreme Court has established are the rights to free speech, Tinker v. Des Moines School District, 393 U.S. 503 (1969), religious freedom in school, Board of Education v. Mergers, 496 U.S. 226 (1990), free and equal public education, Goss v. Lopez, 419

U.S. 565 (1975); Brown v. Board of Education, 347 U.S. 483 (1954), an attorney, notice, confrontation, cross-examination, and freedom of self-incrimination, In re Gault, 387 U.S. 1 (1967), freedom from unreasonable searches and seizures, New Jersey v. T.L.O., 469 U.S. 325 (1985), and waiver of the rights to be silent and to an attorney. Fare v. Michael C., 442 U.S. 707 (1979). Federal circuit courts have established a child's right to freedom from harm while in state care, Taylor v. Ledbetter, 818 F.2d 791 (11th Cir. 1987), and to sue for damages when injured by a child welfare agency's failure to protect or failure to provide necessary care. Doe v. New York City Dept. of Social Services, 649 F.2d 134 (2d Cir. 1981).

Similarly, Florida courts have been strong proponents in establishing and expanding children's rights. Children have the ability to make healthcare decisions for themselves in an emergency, Fla. Stat. § 743.064 (2002), and minor females may make medical or surgical healthcare decisions for themselves and children born to them. Fla. Stat. § 743.065 (2002). Children may sue their parents for negligence, Ard v. Ard, 414 So.2d 1066 (Fla. 1982), may act as trustees, Persons v. Pflum, 135 So. 878 (Fla. 1931), and may enter into binding contracts for necessities. Lee v. Thompson, 168 So. 848 (1936).

Unmarried children may execute valid consents to adoption, Pugh v. Barwick, 56 So.2d 124 (Fla. 1952), or sign consents terminating their parental rights to their children. E.L. v. Department of Health and Rehabilitative Services, 700 So.2d 3 (Fla. 1st DCA 1997). Children may acquire property or be the grantee of a deed, Watkins v. Watkins, 166 So. 577 (Fla. 1936), and may work in the entertainment industry or as pages for the Florida Legislature. Fla. Stat. § 450.021 (2002).

Further, children may invoke or waive constitutional or statutory rights. See, e.g. Attorney Ad Litem for D.K. v. The Parents of D.K., 780 So.2d 301 (Fla. 4th DCA 2001)(child can protect his or her mental health records from disclosure to parents). In addition, children possess a constitutional right to access the courts as provided by Article 1, section 21 of the Florida Constitution. Further, the constitutional right to privacy is afforded "to every natural person" including minors. S.C. v. Guardian Ad Litem, 845 So.2d 953, 958 (Fla. 4th DCA 2003).

The intention of this State to not only expand children's rights, but to also hold children to a higher standard with regard to personal responsibility is reflected in the State's expectations for children. For example, at any age a child may be prosecuted as a juvenile delinquent, Fla. Stat. §

985.201 (2002), be tried as an adult as young as the age of 14, Fla. Stat. § 985.227 (2002), be convicted of offenses punishable by death or life imprisonment, Duke v. State, 541 So.2d 1170 (Fla. 1989), and be expected to maintain a relationship with their attorney and participate in their defense as would any adult defendant. Fla. Stat. § 985.203 (2002).

Historically, it is the courts in this State that have been responsible for ensuring that children are treated fairly and that their rights are protected. This authority originates from the doctrine of parens patriae and the courts' inherent authority to protect children. In re Beverly, 342 So.2d 481, 484 (Fla. 1977). The arbitration clause which Petitioners and amici purport to be valid contravenes the courts' authority to protect children. Arbitration clauses executed by a parent on behalf of his or her child, but for the ability of the parent to fulfill his or her legal obligation arising from the parent/child relationship, operate to jeopardize the courts' authority to protect children. In Prima Paint Corp v. Flood & Conklin Mfg. Co., 388 U.S. 395, 407 (1967), Justice Black, in the dissent, recognized that arbitrators who are designated to adjudicate the legal validity of issues "need not even be lawyers, and in all

probability will be nonlawyers, wholly unqualified to decide legal issues, and even if qualified to apply the law, not bound to do so."

Holding that a parent cannot bind his or her child to an arbitration agreement enforces this State's public policy of protecting children's rights and maintaining the court's parens patriae jurisdiction. Even though a parent enjoys broad discretion with regard to his or her child, this discretion is not without its limitations. "[P]arents cannot in all circumstances control the exercise of their child's rights [as] not all decisions are removed from a minor." Attorney Ad Litem for D.K. vs. The Parents of D.K., 780 So.2d 301, 304-05 (Fla. 4th DCA 2001). Likewise, the United States Supreme Court has recognized that

> [i]t is cardinal...that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder.... But the family itself is not beyond regulation in the public interest.... And... rights of parenthood are [not] beyond limitation.

Prince v. Massachusetts, 321 U.S. 158 (1944) (citations omitted). Similarly, the Colorado Supreme Court held, in a case upon which the Fourth District Court of Appeal relied,

> [w]hile we certainly agree that parents have a liberty interest in the 'care, custody and control of their children,' we do not believe that right encompasses a parent's decision to disclaim a minor's possible future

> recovery for injuries caused by negligence by signing a release on the minor's behalf [thereby] effectively eliminating a child's right to sue an allegedly negligent party for torts committed against him. It is, thus, not of the same character and quality as those rights recognized as implicating a parents' [sic] fundamental liberty interest in the 'care, custody and control' of their children.

Cooper v. The Aspen Skiing Co., 48 P.3d 1229, 1235 (2002). As the Fourth District Court of Appeal decided in this case, the State as parens patriae may restrict a parent's control over waiving his or her child's rights to sue a tortfeasor in a court of law. Consequently, this Court should affirm the court's decision.

II. THIS COURT SHOULD AFFIRM THE FOURTH DISTRICT COURT OF APPEAL'S DECISION SINCE A PARENT DOES NOT HAVE THE AUTHORITY TO CREATE A BINDING ARBITRATION AGREEMENT ON BEHALF OF HIS OR HER CHILD.

The Fourth District Court of Appeal held that "a parent...does not have the authority to bind a minor child to arbitrate potential personal injury claims." Shea v. Global Travel Marketing, Inc., 28 Fla. L. Weekly D2004, D2005 (Fla. 4th DCA 2003). In reaching this conclusion, the court applied "ordinary principles of contract law" and adjudged the issue to be a question of formation of an arbitration agreement, not one of scope. Id. The court further stated that a consideration of public policy grounds is proper in a

determination of formation of an arbitration agreement. Id.

The Fourth District Court of Appeal's holding that the issue in this case is one of formation is confirmed by a review of case law. In Florida, "[a]n arbitration clause can be invalidated on such grounds as exist 'at law or in equity'...and can be defeated by any defense existing under the state law of contracts." Powertel, Inc. v. Bexley, 743 So.2d 570, 574 (Fla. 1st DCA 1999). Federal jurisprudence is in agreement. The United States Supreme Court has recognized that the validity of an arbitration agreement is determined by considering issues relating to the making of the arbitration agreement. Prima Paint Corp. v. Flood & Conklin Mfg. Co., 388 U.S. 395, 404 (1967). The "making of the arbitration agreement" concerns "'the question of the very existence of the [contract] which embodies the arbitration agreement....'" PMC, Inc. v. Atomergic Chemetals Corp., 844 F.Supp. 177 (S.D.N.Y. 1994). The "very existence" of a contract is determined by basic state-law contract principles. First Options of Chicago, Inc. v. Kaplan, 514 U.S. 938, 944 (1995). When there is a dispute as to the "very existence" of a contract, "there is no presumptively valid general contract which would trigger the district court's duty to compel arbitration...." Chastain v. Robinson-Humphrey Co., 957 F.2d

851, 854 (11th Cir. 1992).[1]

No contract is created unless all parties have agreed to its terms. Acevedo v. Caribbean Transportation, Inc., 673 So.2d 170, 173 (Fla. 3d DCA 1996)("[c]ourts are powerless to compel arbitration in the absence of a contract in which both parties have agreed to submit their grievances to arbitration"). "It is hornbook law that to be bound one must be a party to a contract, and there is no arbitration exception to this principle of law." Liberty Communications, Inc. v. MCI Telecommunications Corp., 733 So.2d 571, 574 (Fla. 5th DCA 1999). Generally, one is a party to a written contract if he or she has signed the contract. Coleman v. State, 174 So. 829 (Fla. 1937). However, parties affixing their signatures to a contract must have the capacity to do so. Hogan v. Supreme Camp of American Woodmen, 1 So.2d 256 (Fla. 1941). If one has the capacity to sign, one then has "the power to agree to settlement of disputes under the contract by arbitration." Paid Prescriptions, Inc. v. Department of Health & Rehabilitative Services, 350 So.2d 100,

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[1] Petitioners and amici assert that the Federal Arbitration Act (FAA) applies. However, petitioners and amici misconstrue the FAA's application by mixing scope of a contract with formation of a contract. The FAA governs the arbitration process only if an arbitration agreement has been formed according to state-law contract principles.

102 (Fla. 1st DCA 1977). A minor lacks capacity to sign a contract due to the minor's age. Lee v. Thompson, 168 So. 848 (Fla. 1936); Dilallo v. Riding Safely, Inc., 687 So.2d 353 (Fla. 4th DCA 1997). Therefore, the issue becomes whether a parent's signing of an arbitration agreement on behalf of his or her child creates a binding contract upon the child. The Fourth District Court of Appeal correctly concluded that an arbitration agreement executed by a parent on his or her child's behalf violated Florida's "public policy favoring protection of minors." Shea, 28 Fla. L. Weekly at D2006.[2]

The Fourth District Court of Appeal, in considering this issue, applied a similar analysis as that used by courts in Colorado, Washington, and Utah. Shea, 28 Fla. L. Weekly at D2005. In Cooper v. The Aspen Skiing Co., 48 P.3d 1229, 1230-31 (Colo. 2002), the Colorado Supreme Court "granted certiorari to determine whether Colorado's public policy

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[2] The issue presented in this case is not the same as that presented in Buckeye Check Cashing, Inc. v. Cardegna, 824 So.2d 228 (Fla. 4th DCA 2002), currently pending review before this Court. In Buckeye, the issue is whether the court can determine if a contract mutually assented to and containing an arbitration agreement is nevertheless illegal and therefore unenforceable. 824 So.2d at 230. The present case is distinguishable from Buckeye in that the child questions the very existence of the arbitration agreement, contending the element of assent to the contract is not present and therefore no contract was formed.

allows a parent to validate exculpatory provisions on behalf of [her] minor child." The case arose when a child suffered injuries while training on a ski race course. Id. at 1231. Prior to the child becoming injured, both the mother and the child signed a release of liability. Id. The trial and appellate courts held the mother's signature on the release barred the child from seeking recovery. Id. at 1232. The appellate court reasoned that "a parent's fundamental liberty interest in the care, custody, and control of her child [gives the] mother...the right to release [the child's] claims." Id. The Colorado Supreme Court reversed holding

> we agree with the Washington Supreme Court that 'there are instances where public policy reasons for preserving an obligation of care owed by one person to another outweigh our traditional regard for freedom of contract.' Accordingly, we hold that Colorado's public policy affords minors significant protections which preclude parents or guardians from releasing a minor's own prospective claim for negligence. We base our holding on our understanding of Colorado's public policy to protect children as reflected by legislation protecting minors as well as decisions from other jurisdictions, which we find persuasive.

Id. at 1232-33 (citation omitted). Additionally, the court noted

> [t]o allow a parent...to execute exculpatory provisions on his minor child's behalf would render meaningless for all practical purposes the special protections historically accorded minors...[I]t has long been the rule that courts owe a duty to 'exercise a watchful and protecting care over [a minor's] interests, and not permit his rights to be waived, prejudiced or surrendered

> either by his own acts, or by the admissions or pleadings of those who act for him.'

Id. at 1234.

Similarly, the Washington Supreme Court, in Scott v. Pacific West Mountain Resort, 834 P.2d 6 (Wash. 1992), addressed the issue of whether a parent may "legally waive a child's future potential cause of action for personal injuries resulting from a third party's negligence" in a skiing accident Id. at 15. As a case of first impression, the court held a parent does not have legal authority to do so. Id. The court reasoned

> it is settled law in many jurisdictions that, absent judicial or statutory authority, parents have no authority to release a cause of action belonging to their child. Under Washington law parents may not settle or release a child's claim without prior court approval. Further, in any settlement of a minor's claim, Washington law provides that a guardian ad litem must be appointed (unless independent counsel represents the child) and a hearing held to approve the settlement.... In situations where parents are unwilling or unable to provide for a seriously injured child, the child would have no recourse against a negligent party to acquire resources needed for care and this is true regardless of when relinquishment of the child's rights might occur.

Id. at 19-20. In rejecting the ski school argument that this holding "would make sports engaged in by minors prohibitively expensive due to insurance costs", the court stated "[w]hile this is a valid concern...the same argument can be made in many areas of tort law.... No legally sound reason is advanced

for removing the children's athletics from the normal tort system." Id. at 21.

The Utah Supreme Court, following the Scott decision, held a parent does not have the authority to enter into a contract on behalf of his or her child which releases the child's potential personal injury claims. Hawkins v. Peart, 37 P.3d 1062, 1066 (Utah 2001). The court recognized the state's general statutory provisions are "indicative of public policies favoring protection of minors with respect to contractual obligations.... Utah law provides various checks on parental authority to ensure a child's interests are protected." Id.

The Fourth District Court of Appeal was persuaded by the reasoning of the Colorado Supreme Court in Cooper as this Court should be. Shea, Fla. L. Weekly at D2005. In addition, the Fourth District Court of Appeal's reliance on Scott validates Florida's public policy of requiring traditional freedoms of contract to yield to safeguarding the duty of care a parent owes his or her child. The marketplace will adjust to the costs of doing business based upon the articulated public policy of protecting children's rights. See also Rice v. American Skiing Co., No. CV-99-06, 2000 Me. Super. LEXIS 90, at *9 (Me. May 8, 2000). Finally, as in Utah, Florida law

contains numerous protections of a child's rights from a parent's waiver of those rights.[3] The Fourth District Court of Appeal found that "Florida's public policy favoring protection of minors in analogous circumstances is evidenced by both case law and statutory provisions." Shea, Fla. L. Weekly at D2005.

Petitioners and amici contend this Court should adopt the self-serving rule, espoused in Cross v. Carnes, 724 N.E.2d 828 (Ohio Ct. App. 1998), that a parent has the authority to bind his or her child to an arbitration agreement in a for-profit commercial setting. The Cross decision is essentially a stand-alone case to which this Court should not adhere. The Cross court reached its decision after reviewing Zivich v. Mentor Soccer Club, Inc., 696 N.E.2d 201 (Ohio 1998), which involved a parent's authority to bind his or her minor child to an exculpatory agreement regarding a non-profit sporting activity. The Cross court neglected to recognize that the Zivich court, based on public policy, carved out an exception for sporting events organized by non-profit agencies. Zivich,

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[3] See, e.g., Gammon v. Cobb, 335 So.2d 261 (Fla. 1976); Romish v. Albo, 291 So.2d 24 (Fla. 3d DCA 1974); Attorney Ad Litem for D.K. v. Parents of D.K., 780 So.2d 301 (Fla. 4th DCA 2001); Dilallo v. Riding Safely, Inc., 687 So.2d 353 (Fla. 4th DCA 1997); Fla. Stat. §§ 744.387(2), 744.301(1) (2002).

696 N.E.2d at 205.

Subsequently, in Rice v. American Skiing Co., No. CV-99-06, 2000 Me. Super. LEXIS 90, at *9-*10 (Me. May 8, 2000), the defendant, as in Cross, relied on Zivich for the proposition that a parent could release his or her child's negligence claim in a commercial setting. The Maine Superior Court, in rejecting this contention, stated

> Zivich stands for the more limited proposition 'that parents have the authority to bind their minor children to exculpatory agreements in favor of volunteers and sponsors of nonprofit sports activities where the cause of action sounds in negligence.' The decision was grounded on two public policy considerations: first, nonprofit sports organizations would be unable to get volunteers without such releases and would go out of existence; and, second, parental authority to make and give such releases is of constitutional importance."

Id. (citation omitted). The court continued by concluding

> the point in Zivich, which involves a volunteer, is distinguishable from this case, which involves a paid employee. While a volunteer may reasonably expect that he should suffer no penalty for the consequences of his gratuitous acts, a paid employee...may not.... This is not an inconsequential point. However, it is a risk against which a for-profit business may insure itself. This court cannot conclude that the public policy consideration espoused by the defendants is paramount to the right of the infant to his negligence claim.

Id. at *10 (emphasis added). The Fourth District Court of Appeal's decision in Shea accurately recognizes the distinction of the issue in terms of for-profit and non-profit sports activities for children. 28 Fla. L. Weekly at D2006.

The Cross court additionally failed to recognize that other states had held a parent could not waive a substantive right of a child. See, e.g. Tuer v. Niedoliwka, 285 N.W.2d 424 (Mich. Ct. App. 1979)("in Michigan a parent has no authority merely by virtue of the parental relation to waive, release, or compromise claims of his or her child. Generally speaking, the natural guardian has no authority to do an act which is detrimental to the child. Authorization by statute is necessary to give the mother power to bind the child.").

Petitioners and amici argue parental rights to the care, custody, and management of children absolutely supersede a child's rights. This proposition is incorrect. Ample authority exists evidencing Florida's legal protection of children from their parents' potentially inopportune decisions on their behalf. In Florida, a parent cannot settle a child's lawsuit over $15,000 without first obtaining court approval. See Fla. Stat. §§ 744.1012, 744.301, 744.387(2) (2002). Also, a minor child has the right to invoke the psychotherapist/patient privilege to prevent the child's parents from obtaining and disclosing the child's psychotherapy records. Attorney Ad Litem for D.K. vs. The Parents of D.K., 780 So.2d 301 (4th DCA 2001). Further, a parent does not have the right to contract away a child's

support rights. Gammon v. Cobb, 335 So.2d 261, 266-67 (Fla. 1976). See also Bush v. Bush, 590 So.2d 531, (Fla. 5th DCA 1991)("there is a profound question as to whether [a parent] should be allowed to waive [a child's] procedural rights."); Romish v. Albo, 291 So.2d 24 (Fla. 3d DCA 1974)(a parent is prohibited from waiving his or her child's counterclaim absent a court order). Thus, Florida courts have restricted a parent's ability to waive entitlements of children.

Petitioners, in further support of the proposition that a parent can waive a child's rights, cite to cases involving the power of a parent to bind his or her child to arbitrate a dispute under a group medical service contract. These health care cases are an exception because implicit in the parent/child relationship is the duty of the parent to provide care for his or her child. See Variety Children's Hospital v. Vigliotti, 385 So.2d 1052 (Fla. 3d DCA 1980); State v. Winters, 346 So.2d 991 (Fla. 1977); State v. Joyce, 361 So.2d 406 (Fla. 1978); Fla. Stat. § 827.03(3)(a)1. (2002). Unless the parent can contract for medical benefits, the child will be denied such benefits. Florida statutory law requires parents to provide their children with necessary medical services by virtue of the fact that failure to do so constitutes neglect. Fla. Stat. § 39.01(45) (2002). The

Fourth District Court of Appeal's decision below is properly in accord. Shea, 28 Fla. L. Weekly at D2005.

Petitioner and the trial court relied on a third party beneficiary contract theory. Such reliance incorrectly assumes public policy has no impact on this type of contract. "[W]here a parent has a duty to protect the best interests of a child, an agreement to insure a third party against any consequences for that third party's negligent behavior toward the child can only serve to undermine the parent's fundamental obligations to the child." Hawkins v. Peart, 37 P.3d 1062, 1067 (Utah 2001). "'We are extremely wary of a transaction that puts parent and child at cross-purposes and...tends to quiet the legitimate complaint of a minor child.... The end result is...the outright thwarting of our protective policy [towards children].'" Id. A parent's duty to act "for the benefit of his child [is] not fully discharged where the parent enters into a bargain which gives rise to conflicting interests." Ohio Cas. Ins. Co. v. Mallison, 354 P.2d 800, 802 (Or. 1960). In the present case, any benefit of the bargain to the child in the purported contract was an illusion in that the benefit did not flow to the third party beneficiary, but instead to the mother, who had an interest to go on safari. An independent third person such as an attorney ad litem or

guardian ad litem would not have entered into a contract that compromised a child's cause of action for damages arising in tort. Likewise, a court would not have compromised a child's claim.

CONCLUSION

The public policy of protecting individual rights of children must prevail over the market concerns of commercial enterprise. In holding an arbitration agreement entered into by a parent on behalf of his or her child in a commercial context is unenforceable against the child, the Fourth District Court of Appeal upheld the State's public policy of protecting and promoting children's rights versus those of commercial interests. This decision upholds the public policy of this State. Petitioners and amici contend that the court must consider a policy of encouraging tourism in determining whether minors are bound by arbitration agreements. The courts are not charged with the responsibility of protecting the profit margins of commercial enterprises. Therefore, the Fourth District Court of Appeal's decision should be affirmed thereby ensuring that children's rights remain of paramount importance to the people of this State.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail this ____ day of February, 2004 to Rodney E. Gould, Esquire, Rubin Hay & Gould, 205 Newbury Street, Fourth Floor, Framingham, MA 01701; Edward S. Polk, Esquire, Conroy, Simberg, Ganon, Krevans & Abel, P.A., 3440 Hollywood Blvd., Second Floor, Hollywood, FL 33021; Robert B. Stoler, Esquire, 501 E. Kennedy Boulevard, Suite 1700, P.O. Box 1438, Tampa, FL 33601-1438; Edward M. Ricci and Scott C. Murray, Esquires, Ricci Leopold, 1645 Palm Beach Lakes Boulevard, Suite 250, West Palm Beach, FL 33401; Philip M. Burlington, Esquire, Caruso, Burlington, Bohn & Campiani, Barristers Building, Suite 3A, 1615 Forum Place, West Palm Beach, FL 33401; Paul D. Jess, Esquire, Academy of Florida Trial Lawyers, 210 South Monroe Street, Tallahassee, FL 32301; Steven M. Goldsmith, Esquire,
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CERTIFICATE OF FONT COMPLIANCE

The undersigned certifies that this Amicus Curiae Brief complies with the font requirements of Rule 9.210(a)(2), Fla. R. App. P.

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