

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FIFTH DISTRICT

JANUARY TERM 2009

JAMES D. OWNBY, ETC.,

Appellants/Cross-Appellees,

v.

Case No. 5D07-4102 & 5D08-44

CITRUS COUNTY, FLORIDA,  
CITRUS SPRINGS, ETC., ET AL,

Appellees/Cross-Appellants.

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Opinion filed June 5, 2009

Non Final Appeal from the Circuit Court  
for Citrus County,  
Patricia V. Thomas, Judge.

Jill H. Bowman and J. Andrew Meyer of  
James, Hoyer, Newcomer and Smiljanich,  
P.A., Tampa, for Appellants/Cross-  
Appellees.

Charles Wachter and Hala A. Sandridge of  
Fowler White Boggs Bunker P.A., Tampa,  
and Robert Battista, Inverness, for  
Appellees/Cross-Appellants.

PER CURIAM

In this consolidated appeal, Appellant James Ownby challenges the trial court's denial of class certification. Appellants Fernando and Edith Monroy challenge the denial of a subsequent motion for the Monroys to intervene and be substituted as class

representatives. The cross appeal was abandoned. This Court has jurisdiction pursuant to Florida Rule of Appellate Procedure 9.130(a)(2)(vi).

Finding no abuse of discretion, we affirm the trial court's determination that class certification should be denied because the proposed class representative failed to establish that he would adequately represent the putative class. However, we do conclude that the trial court abused its discretion in denying the motion to intervene. Intervention is ordinarily liberally allowed absent some valid reason for denial. *Department of Children and Family Services v. Brunner*, 707 So.2d 1197, 1198 (Fla. 1<sup>st</sup> DCA 1998). Here, the trial court gave no reason for denying the intervention and none is apparent to us. The case met all the criteria for class certification except the adequacy of the proffered representative. The intervening parties were members of the very large, putative class. Although the litigation had been pending for some time, the case had not been set for trial, and there is no indication that the intervention would delay the proceeding.

AFFIRMED IN PART; REVERSED IN PART AND REMANDED.

TORPY and LAWSON, J.J., and COBB, W., Senior Judge, concur.