



Miami-Circuit Judge William L. Thomas, 11th Judicial Circuit of Florida. Courtesy photo

NEWS

Class Certification Granted Against FIU in Litigation Over Student Reimbursement Due to Pandemic

“Hopefully, the volunteers on our state board of governors will now follow many other states and simply refund students all of these stolen charges, instead of spending hundreds of thousands of dollars on defense law firms,” said Adam Moskowitz, who represents students from 12 public colleges and universities in Florida.

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4 minute read

Litigation



Michael A. Mora

A Miami-Dade Circuit Court judge certified what a Coral Gables attorney said is the first litigated tuition reimbursement case in the country—and one that could result in more than \$100 million for Florida students.

That hurdle was not easy for plaintiff counsel to overcome.

Adam Moskowitz, the managing partner at the Moskowitz Law Firm, represents Rebecca Alexander and similarly situated students in the underlying case. The students attended Florida International University when its campus was shut down in the spring and summer semesters of 2020, due to social distancing measures stemming from the coronavirus pandemic.

“I told the Florida Board of Governors more than two years ago to just work with us and credit the money back to those students (like other states), and we would have taken no attorney fees,” Moskowitz said in an email. “But instead, they sent us letters threatening us with sanctions, for allegedly bringing baseless cases.”

Matthew Lee Lines, a partner at Isicoff Ragatz in Miami and lead attorney representing the Florida International University Board of Trustees, did not respond to a request seeking comment.

The latest development in the dispute involved Miami-Dade Circuit Judge William Thomas, who refused to grant FIU’s motion to dismiss, and ruled in the order that the thousands of students suing the defendant “adequately plead the existence of an express contract between themselves and FIU.”



Florida International University

In his ruling, the judge of the complex litigation section pointed to students providing proof that they’d paid fees for services, which FIU had failed to provide, such as an “athletic fee” or a “transportation access fee.”

And Thomas noted that without paying the fees, the students “could be subject to penalties, such as academic suspension, withholding of student records and transcripts, and additional fees if sent to collections.”

In defending FIU, which charged students fees pursuant to Section 1009.24, Florida Statutes, Lines used a similar argument to the stance the University of Florida and Miami-Dade College have adopted. He argued the court should shield his client should from the class action lawsuit under “sovereign immunity,” a concept in which governments agencies are protected in legal disputes.

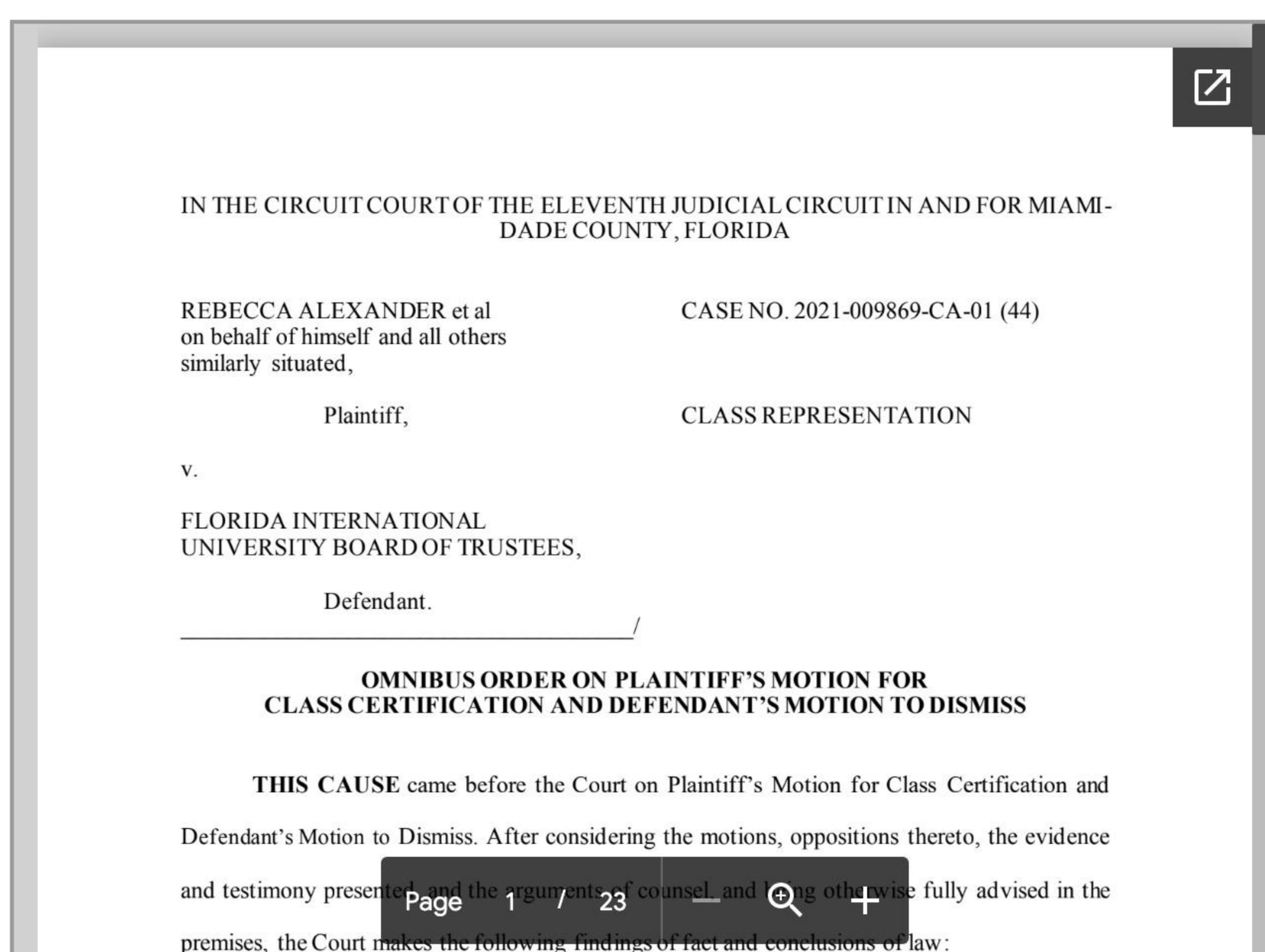
The Florida Defense Lawyers Association claimed in an amicus brief in support of the Miami-Dade College’s argument that an unfavorable ruling on sovereign immunity would have far-ranging implications for Florida institutions and other governmental entities.

But they appeared to have failed in arguing that “disaffected citizens” could file “class action litigation seeking hundreds of millions of dollars” in “just about anything to demonstrate an express, written contract—a permit, a license, a parking meter receipt.”

Instead, Thomas ruled that sovereign immunity did not protect the Sunshine State from an action for breach of an express contract under Florida law. He then denied Miami-Dade College’s motion to dismiss, and stayed the case, pending a Third District Court of Appeal ruling.

Now, Thomas has cleared the way for the FIU-certified class action—in which plaintiff counsel alleged students were improperly bilked out of \$11 million in fees—to head to trial in the Miami-Dade Circuit Court.

Read the order:



Meanwhile, Moskowitz, who represents students at 12 Florida public schools, argued it is important for the public to become aware of how colleges in the Sunshine State are using their tax dollars.

In an email, he contrasted the Florida schools with the colleges and universities in Georgia, which have instead agreed to reimburse students for services they claimed they did not receive.

Moskowitz said, “Hopefully, the volunteers on our state board of governors will now follow many other states and simply refund students all of these stolen charges, instead of spending hundreds of thousands of dollars on defense law firms.”

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