

## **CLASS REPRESENTATIVES CANNOT APPEAL DENIAL OF CLASS CERTIFICATION AFTER ACCEPTING UNAPPORTIONED OFFER OF JUDGMENT**

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*Douglas v. Governing Board of Window Rock*  
Ct. Appeals, Div. One, May 28, 2009

Authored by the [JSH Appellate Team](#)

Teachers sued their school district because of an alleged failure to pay in accordance with A.R.S. § 15-952. Defendant school district moved to dismiss the complaint, arguing A.R.S. § 15-952 didn't give rise to a private right of action. The trial court granted Defendant's motion and Plaintiffs appealed. The court of appeals held that a private cause of action does exist under the statute and remanded the case. Plaintiffs then moved for class certification, which was denied.

The named Plaintiffs accepted a Rule 68 Offer of Judgment. Before judgment was entered, however, the Plaintiffs moved to reconsider the denial of class certification. The court entered Rule 68 judgment and denied Plaintiffs' motion as moot because no plaintiffs remained in the case. Plaintiffs appealed.

The court of appeals dismissed the appeal for lack of jurisdiction. Plaintiffs were not "aggrieved parties" with standing to appeal because they voluntarily consented to the Rule 68 Offer of Judgment. The court rejected Plaintiffs' argument that the Rule 68 judgment affected only their individual claims, and not their claim to represent the class. The Rule 68 Offer of Judgment resolved individual and the class claims, thus Plaintiffs were not "aggrieved" parties with standing to appeal.