

STATE OF NORTH CAROLINA

COUNTY OF WAKE

IN A MATTER  
BEFORE THE COMMISSIONER OF BANKS  
DOCKET NO. 05:008:CF

IN RE: )  
 )  
ADVANCE AMERICA, CASH ADVANCE )  
CENTERS OF NORTH CAROLINA, INC. )  
\_\_\_\_\_ )

**MOTION TO INTERVENE**

Now come John R. Kucan, Welsie Torrence and Terry Coates and move, pursuant to G.S. 150B-38(f) and Rule 24, N.C. Rules Civ. Proc., that they be permitted to intervene in this contested case. In support hereof, Movants respectfully show as follows:

1. G.S. 150B-38(f) provides that “[a]ny person may petition to become a party by filing with the agency or hearing officer a motion to intervene in the manner provided by G.S. 1A-1, Rule 24.”
2. Rule 24(b)(2) authorizes permissive intervention “[w]hen an applicant’s claim . . . and the main action have a question of law or fact in common.”
3. Movants are the named plaintiffs in New Hanover case no. 04-CVS-2860, titled *John R. Kucan, Welsie Torrence and Terry Coates v. Advance America, Cash Advance Centers Of North Carolina, Inc., Advance America, Cash Advance Centers, Inc. and William M. Webster, IV* (the “Kucan case” or “Kucan”). A copy of the complaint in *Kucan* is attached hereto as Exhibit A.

4. The *Kucan* case has been specially assigned by the Chief Justice to Hon. D. Jack Hooks, Superior Court Judge, and proceedings in the *Kucan* case are pending before Judge Hooks.

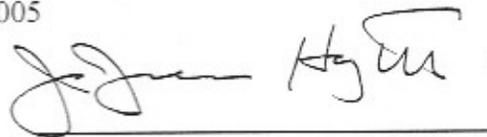
5. The *Kucan* case raises certain issues of law and fact that are the same as issues of law and fact raised in this contested case proceeding: The *Kucan* complaint asserts that Advance America, Cash Advance centers of North Carolina, Inc., together with its parent company, Advance America, Cash Advance Centers, Inc. and the companies' chief executive officer and chairman of the boards of directors William M. Webster IV, have violated the North Carolina Consumer Finance Act and the North Carolina statutes governing the business of check cashing. See *Kucan* complaint, ¶¶ 67-82, 83-95. Similarly, this contested case proceeding concerns these same issues. As stated at page 3 of the Notice of Hearing:

“The purpose of this hearing is to determine whether . . . there is a basis to conclude that [Advance America, Cash Advance Centers of North Carolina, Inc.], in the operation of its cash Advance business in North Carolina, is engaged in the business of lending in violation of G.S. § 53-166(a); is attempting to evade the application of the Consumer Finance Act in violation of G.S. § 53-166(b); is engaged in the business of check cashing in violation of G.S. § 53-276 . . . .”

6. In light of the common issues involved in this contested case and the *Kucan* case, it is respectfully submitted that intervention is proper under Rule 24(b)(2) and under G.S. 150B-38(f).

WHEREFORE, Movants pray that they be permitted to intervene in this contested case.

This, the 24<sup>th</sup> day of February, 2005



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