
United States Court of Appeals
for the
Eleventh Circuit

Case No. 10-11052-EE

EVA LOCKE, PATRICIA ANNE LEVENSON, BARBARA VANDERKOLK
GARDNER, NATIONAL FEDERATION OF INDEPENDENT BUSINESS,

Plaintiffs-Appellants,

– v. –

JOYCE SHORE, JOHN P. EHRIG, AIDA BAO-GARCIGA,
ROASSANA DOLAN, WANDA GOZDZ, *et al.*,

Defendants-Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA

**BRIEF FOR *AMICUS CURIAE* AMERICAN SOCIETY OF
INTERIOR DESIGNERS, INC. IN SUPPORT OF APPELLEES**

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**CERTIFICATE OF INTERESTED PERSONS
AND CORPORATE DISCLOSURE STATEMENT**

Alabama Decorators, Artists, and Designers, Inc. – Amicus Curiae

Anderson, Ann – Interest in Amicus Curiae

Association of Interior Design Professionals – Amicus Curiae

Bao-Garciga, Aida – Appellee/Defendant

Bugg, Jr., James S. – Interest in Amicus Curiae

Bugg, Sr., James S. – Interest in Amicus Curiae

Decorating Den Systems, Inc. – Amicus Curiae

Designer Society of America – Amicus Curiae

Dolan, Roassana – Appellee/Defendant

Ehrig, John P. – Appellee/Defendant

Foodservice Equipment Distributors Association – Amicus Curiae

Gabbert, Richard B. – Counsel for Amicus Curiae Office Furniture Dealers Alliance

Gardner, Barbara Vanderkolk – Appellee/Defendant

Glogau, Jonathan A. – Counsel for Appellee/Defendant

Gozdz, Wanda – Appellee/Defendant

Grigsby, Mary Jane – Appellee/Defendant

Gustafson, Garrick – Appellee/Defendant

Hall, E. Wendell – Appellee/Defendant

Hinkel, Robert L. – United States District Court Judge

Hungar, Thomas G. – Counsel for Amicus Curiae Office Furniture Dealers Alliance

Independent Office Products and Furniture Dealers Association –
Parent Organization of Amicus Curiae Office Furniture Dealers Alliance

Institute for Justice – Counsel for Plaintiff-Appellant

Interior Design Protection Council – Amicus Curiae

Interior Design Society – Amicus Curiae

Interior Redesign Industry Specialists – Amicus Curiae

James S. Bugg Family Limited Partnership – Interest in Amicus Curiae

Johnson, Emory, J. – Appellee/Defendant (NEW PARTY)

Kry, Robert – Attorney

Kuritsky, Eric – Appellee/Defendant

Levenson, Patricia Anne – Appellant/Plaintiff

Locke, Eva – Appellant/Plaintiff

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Merritt, Kimberly – Interest in Amicus Curiae

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National Kitchen and Bath Association – Amicus Curiae

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North American Association of Food Equipment Manufacturers – Amicus Curiae

Office Furniture Dealers Alliance – Amicus Curiae

Pacific Legal Foundation – Amicus Curiae

Real Estate Staging Association – Amicus Curiae

Sandefur, Timothy – Counsel for Amici Curiae Pacific Legal Foundation and National Kitchen and Bath Association

Sherman, Paul M. – Counsel for Appellants/Plaintiffs

Sherrill, Jr., William C. – United States Magistrate Judge

Shore, Joyce – Appellee/Defendant

Solera, Lourdes – Appellee/Defendant

Woodring Law Firm – Counsel for Appellants/Plaintiffs

Woodring, Daniel J. – Counsel for Appellants/Plaintiffs

Younts, Natasha – Interest in Amicus Curiae

Amicus Curiae, American Society of Interior Designers, Inc. states that it has no parent corporation and that no publicly held corporation owns ten (10%) percent or more of its membership interests. All parties have consented to the filing of this brief.

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INTEREST OF AMICI CURIAE

The American Society of Interior Designers, Inc. (ASID) is a not-for-profit corporation having headquarters in Washington, D.C., with forty-eight (48) Chapters operating throughout the United States and Canada. ASID is the largest professional organization of interior designers in the United States.

Organized in 1975 through the legal consolidation of its predecessor organizations, the American Institute of Interior Designers and the National Society of Interior Designers, ASID has a membership of more than 36,000 members, with a variety of professional programs and activities. In addition to its practitioner members, ASID has more than 2,700 Industry Partner Firms consisting of 7,500 individual representatives of manufacturers of design-related products and services. Its membership also includes well over 10,000 students studying interior design in various schools, colleges and universities.

One of ASID's stated purposes is to "...protect the public health, safety and welfare and to educate the public on the value of professional design services." In furtherance of that purpose, ASID maintains a full-time staff that analyzes and disseminates information and takes positions on government laws and regulations of concern to the profession of interior design.

It's no secret, nor should it be, that ASID's legislative policy supports the pursuit of legal recognition of the profession of interior design. ASID believes

accomplishing legal recognition is best achieved through the enactment of legislation that:

- (i) does not limit, restrict or prevent the practice of interior design;
- (ii) does not limit, restrict or prevent anyone from using the title “interior design” or “interior designer;” and
- (iii) allows state-qualified interior designers to (a) use the title “registered,” “certified” or “licensed” interior designer and (b) perform such additional services related to the practice of interior design as applicable governing jurisdictions deem appropriate for state-qualified interior designers to perform.

ASID has long supported reasonable and rational state legislation that serves to protect the interest of the public’s safety and help guard consumers against incompetent or otherwise untrained designers.

ASID strongly believes that Appellants’ challenge to Florida’s law requiring a person to have a license to practice “non-residential” interior design, if successful, will undermine Florida’s right to maintain and enforce legislation that serves to protect the public safety and consumers against incompetent and untrained interior designers. Accordingly, Florida has a rational basis for regulating non-residential interior designers, and the District Court’s determination that the subject statute passes Constitutional muster should be affirmed.

SUMMARY OF ISSUE

Did the District Court correctly determine that Florida's ban on the unlicensed practice of non-residential interior design does not violate the United States Constitution?

This question should be answered in the affirmative.

SUMMARY OF ARGUMENT

“The practice of the dentistry consists almost entirely of drilling teeth!”

“The practice of radiology consists almost entirely of reading x-rays.”

“The practice of law consists almost entirely of reading cases and speaking to people!”

“The practice of landscape architecture consists almost entirely of providing drawings showing the location of trees!”

No one would reasonably accept these statements to be an honest, unbiased description of what these professionals actually perform. It denies the complexity of their services and the level of education, experience, testing, and skills these professionals are required to possess in order to competently practice their professions. No less is it so than with regard to Appellants' "litigation tailored" description of the "practice of interior design," a description which is incomplete, biased and demeaning to the profession.

Appellants contend that the “practice of interior design consists almost entirely of making drawings and speaking to other people about how they might wish to arrange and furnish the spaces they occupy...” (Appellants’ Br. at 1.) Yes, making drawings and speaking to people are a part of the services rendered by a non-residential interior designer, but these services do not come close to describing the activities of non-residential interior design practitioners. Yet, Appellants would have this Court decide very important constitutional issues on the basis of this misinformation.

This brief has a singular purpose; namely to present a fair, accurate and meaningful explanation of the types of services rendered by non-residential interior design practitioners - which services, whether considered on an isolated or collective basis, clearly provide a rational basis for the State of Florida to make it illegal to practice non-residential design in Florida without a license.

ARGUMENT

I. The Practice Of Interior Design – What It Is And What It Isn't.

Appellants argue that Florida's ban on the unlicensed practice of non-residential interior design is unconstitutional since the State of Florida has no rational basis to regulate the practice. According to Appellants, the "practice of interior design consists *almost entirely* of making drawings and speaking to other people about how they might wish to arrange and furnish the spaces they occupy..." (Appellants' Br. at 1.) (emphasis added) and that "interior design is a creative and inherently expressive occupation; designers are paid primarily for their ideas, not their technical know-how or 'advice.'" (Appellants' Br. at 26.)

In 2006, Appellants' counsel, the Institute for Justice, published a report entitled "*Designing Cartels: How Industry Insiders Cut Out Competition*" attacking the interior design profession (the "IJ Report")¹.

In 2007, Dr. Caren Martin, a professor at the University of Minnesota, wrote a rebuttal to the IJ Report (the "Rebuttal")². The flaws in Appellants' description of

¹ Dick M. Carpenter II, *Designing Cartels: How Industry Insiders Cut Out Competition*, (2d ed. November 2007), available at Institute for Justice, http://www.ij.org/index.php?option=com_content&task=view&id=1619&Itemid=249 (last visited May 28, 2010).

² Caren S Martin, *Rebuttal of the Report by the Institute for Justice Entitled Designing Cartels: How Industry Insiders Cut Out Competition*, 33(3) J. Int. Design 1, (2008), available at

the practice of interior design are the very same flaws immediately pointed out by Dr. Martin:

“The basis of describing and defining professional interior design is... based on anecdotal information, in many cases gleaned from conversational statements of persons quoted in newspaper articles, etc.”³

Appellants also misrepresent ASID’s own stated description of the practice of interior design. Appellants contend that according to the ASID, the practice of interior design may include (1) formulation of preliminary space plans and two and three dimensional design concept studies and sketches...; (2) selection of *colors, materials and finishes*...; and (3) selection and specification of *furniture, fixtures, equipment and millwork*, including layout drawings and detailed product description. (Appellants’ Br. at 11.) This leaves the reader to conclude that there are no other activities that an interior designer performs. If, however, the reader accesses ASID’s website, there is readily found a description of at least ten (10) more activities that are most germane to the question of what is the practice of interior design.⁴

<http://www3.interscience.wiley.com/journal/120183619/issue> (last visited May 28, 2010).

³ Id. at 2.

⁴ American Soc’y of Interior Designers, Definition of Interior Design, <http://www.asid.org/NR/rdonlyres/9A223396-B6C2-42DE-87C2-19EDCBDEA718/%200/DefID.pdf> (last visited May 28, 2010).

The National Council for Interior Design Qualification (“NCIDQ”) further clarifies the definition of interior design.⁵ NCIDQ articulates a meaningful, relevant and honest description of the services actually performed by professional interior designers which include:

- Research and analysis of the client's goals and requirements and development of documents, drawings and diagrams that outline those needs;
- Formulation of preliminary space plans and two and three dimensional design concept studies and sketches that integrate the client's program needs and are based on knowledge of the principles of interior design and theories of human behavior;
- Confirmation that preliminary space plans and design concepts are safe, functional, aesthetically appropriate, and meet all public health, safety and welfare requirements, including code, accessibility, environmental, and sustainability guidelines;

⁵The Nat'l Council for Interior Design Qualification (“NCIDQ”) is a not-for-profit organization of numerous state and other jurisdictional credentialing bodies. NCIDQ seeks to protect the public’s health, safety and welfare by identifying interior designers who have the knowledge and experience to create interior spaces that are not just aesthetically pleasing but also functional and safe. *See* <http://www.ncidq.org/>.

- Selection of colors, materials and finishes to appropriately convey the design concept and to meet socio-psychological, functional, maintenance, lifecycle performance, environmental, and safety requirements;
- Selection and specification of furniture, fixtures, equipment and millwork, including layout drawings and detailed product description and provision of contract documentation to facilitate pricing, procurement and installation of furniture;
- Provision of project management services, including preparation of project budgets and schedules;
- Preparation of construction documents, consisting of plans, elevations, details and specifications, to illustrate non-structural and/or non-seismic partition layouts; power and communications locations; reflected ceiling plans and lighting designs; materials and finishes; and furniture layouts;
- Preparation of construction documents to adhere to regional building and fire codes, municipal codes, and any other jurisdictional statutes, regulations and guidelines applicable to the interior space;
- Coordination and collaboration with other allied design professionals who may be retained to provide consulting services, including but not limited to architects; structural, mechanical and electrical engineers, and various specialty consultants;

- Confirmation that construction documents for non-structural and/or non-seismic construction are signed and sealed by the responsible interior designer, as applicable to jurisdictional requirements for filing with code enforcement officials;
- Administration of contract documents, bids and negotiations as the client's agent; and
- Observation and reporting on the implementation of projects while in progress and upon completion, as a representative of and on behalf of the client; and conducting post-occupancy evaluation reports.⁶ (underlines denoting hyperlinks removed).

If Appellants are inclined to suggest NCIDQ's list of services is only an "insider's" point of view, we look again to the Rebuttal, which offers several disinterested but very credible third-party descriptions of the practice of interior design:

The Bureau of Labor Statistics' (BLS) Occupational Outlook Handbook (2007) definition identifies interior designers as "...involved in planning the interior spaces of almost all buildings—offices, airport terminals, theaters, shopping malls, restaurants, hotels, schools, hospitals, and private residences. Designers help to improve these spaces in order to boost office productivity, increase sales, attract a more affluent clientele, provide a more relaxing hospital stay, or increase the building's market value. Traditionally, most interior designers focused on

⁶Nat'l Council for Interior Design Certification, Definition of Interior Design, <http://www.ncidq.org/AboutUs/AboutInteriorDesign/DefinitionofInteriorDesign.aspx>

decorating: choosing a style and color palette and then selecting appropriate furniture, floor and window coverings, artwork, and lighting. However, an increasing number of designers are becoming more involved in designing architectural detailing... *[I]nterior designers must be able to read blueprints, understand building and fire codes, and know how to make the space accessible to the disabled....collaborate with architects, electricians, and building contractors to ensure that their designs are safe and meet construction requirements.*⁷ (emphasis added)

The Encyclopedia of Careers and Vocational Guidance (Facts on File, 2005) defines a career labeled, “Interior Designers and Decorators.” Their article defines the career similarly to those of the U.S. Census Bureau (2007) and the BLS (2007), but in a more abbreviated fashion, noting in addition the places where interior designers are likely to work, namely “in interior design or architectural firms, departments stores, furniture stores, hotel chains, and large corporations.”). The history of the career is also noted, briefly. Within their “job” description, much more information is offered in terms of scope of work, responsibility, project type, and design and project process. In many ways the tracks outlined here are parallel in terms of interior design and interior decoration processes. However, in terms of definition, the Encyclopedia states, “*the terms ‘interior designer’ and ‘interior decorator’ are sometimes used interchangeably. However, there is an important distinction between the two. Interior designers plan and create the overall design for interior spaces, while interior decorators focus on the decorative aspects of the design and furnishings of interiors.*”⁸ (emphasis added) (some internal citations omitted).

Whether this Court chooses to adopt NCIDQ’s description of services, the Bureau Labor Statistics’ description, the Encyclopedia of Careers and Vocational Guidance’s description, or any combination thereof, one thing is clear - contrary to Appellants’ suggestion, the practice of interior design does not, in any way,

⁷ Martin, *supra*, at 12-13.

⁸ *Id.* at 13.

shape or form, “consist almost entirely of making drawings and speaking to other people about how they might wish to arrange and furnish the spaces they occupy.” (Appellants’ Br. at 1.) Accordingly, Florida has a rational basis for regulating non-residential interior designers, and the District Court’s determination that the subject statute passes Constitutional muster should be affirmed.

II. The Education of an Interior Designer.

Unlike interior decorating, interior design demands a rigorous program of education, as well as practical experience and mandatory continuing education. Florida therefore has a rational basis for seeking to regulate this field and ensuring that these rigorous standards are met in the area of non-residential interior design.

A. Academic Accreditation.

The Council for Interior Design Accreditation (CIDA) is recognized as a reliable authority on interior design education by the Council for Higher Education Accreditation. CIDA sets standards for postsecondary interior design education. All CIDA accredited programs provide a sequenced curriculum of interior design and related professional coursework. These programs also require a minimum of 30 semester credit hours of liberal arts and sciences education intended to develop quantitative reasoning and critical thinking skills, culminating in a bachelor’s degree or graduate degree. Accredited programs are consistently

reviewed, and failure to achieve student learning expectations and performance criteria may result in revocation of accredited status.⁹

In contrast to Appellants' characterization of minimal training and specialized skills, accredited interior design institutions must demonstrate student understanding of a broad body of knowledge. In addition to knowledge areas regarding color, form, fixtures, and finish materials, students are required to be knowledgeable regarding, *inter alia*, concepts of sustainability, environmental systems and controls, interior construction and building systems, ergonomic and anthropometric data, code compliance and applicable state and federal regulations.¹⁰

A study conducted by faculty at the University of Minnesota and Arizona State University concluded that interior designers graduating from CIDA accredited programs amass a specialized body of knowledge that is both overlapping and distinct from that of an architect, and that the accreditation requirements of both design and architectural schools enable each profession to bring a unique perspective to any given project.¹¹

⁹ See Council for Interior Design Accreditation, Accreditation Policy and Procedure, Professional Standards 2009, *available at* http://www.accredit-id.org/Prof_Standards2009.pdf (last visited May 28, 2010).

¹⁰ *Id.*

¹¹ Caren S Martin and Michael D. Kroelinger, *2009 Accreditation Requirements: Comparison of CIDA and NAAB*, 35(2) J. Interior Design ix-xxxii, (2010),

B. Practical Experience, Examination and Organizational Membership.

Upon graduation, a designer gains entry-level work experience.

Internships, mentoring relationships, or enrollment in the Interior Design Experience Program (IDEP) helps to bridge the gap between formal education and real world experience. After six years of combined education and experience, the designer is eligible to take the two-day National Council of Interior Design qualification exam (“NCIDQ Exam”). Only after completing the educational and training requirements, *and* upon passing the NCIDQ exam, is a designer eligible to become a Professional Member of both ASID and IIDA, the primary design organizations in the United States. Additionally, successful passage of the NCIDQ Exam is also a prerequisite for registration in 26 of the U.S. jurisdictions that have enacted licensing or certification statutes.¹²

One of ASID’s core requirements is the successful completion of continuing education units (CEU’s). ASID members are required to complete 6 CEU’s for each two-year reporting cycle. Additional credits may be required by each licensing jurisdiction. CEU topics are varied, and topics include the financial and social repercussions of barrier-free design, fabric specification to

available at <http://www3.interscience.wiley.com/cgi-bin/fulltext/123245703/PDFSTART> (last visited May 28, 2010).

¹² ASID Legislation and Advocacy, State Licensing Summary, <http://www.asid.org/legislation/state/> (last visited May 28, 2010).

prevent the spread of fire, designing for the cognitively challenged, and the unique design challenges of an aging demographic.¹³

The expanded body of knowledge attained through the successful completion of an accredited program as well as the completion of CEU's gives interior designers a comprehensive understanding of design. Thus, an individual designing a hotel interior who has studied the use of fire resistant materials to reduce the rapid spread of flame and toxic smoke, and also how furniture placement can both inhibit the spread of fire and promote successful egress, is in a better position to select, specify and install materials, finishes, furniture and equipment that are safe than one who has not pursued such study. Simply put, an interior decorator lacks the same practical and educational background as the interior designer, and consequently, lacks the information required to make the most informed decision to best suit the client and best serve the public interest.

Accordingly, Florida has a rational basis for regulating non-residential interior designers, and the District Court's determination that the subject statute passes Constitutional muster should be affirmed.

¹³American Soc'y of Interior Designers, CEU's Conferences and Events, Online CEUs, Education-Works, <http://www.asid.org/events/ceus/online/Educationworks.htm> (last visited May 28, 2010).

III. The Practice Of Interior Decoration Is Not The Practice Of Interior Design.

Understandably, persons not close to or understanding of the profession of interior design might mistakenly confuse “the practice of interior decoration” with “the practice of interior design,” but these professions differ in very critical ways.

NCIDQ summarizes the differences between the two as follows:

Interior design is the art and science of understanding people's behavior to create functional spaces within a building. Decoration is the furnishing or adorning of a space with fashionable or beautiful things. In short, interior designers may decorate, but decorators do not design.

Interior designers apply creative and technical solutions within a structure that are functional, attractive and beneficial to the occupants' quality of life and culture. Designs respond to and coordinate with the building shell and acknowledge the physical location and social context of the project. Designs must adhere to code and regulatory requirements and encourage the principles of environmental sustainability.

The interior design process follows a systematic and coordinated methodology—including research, analysis and integration of knowledge into the creative process—to satisfy the needs and resources of the client.

Many U.S. states and Canadian provinces have passed laws requiring interior designers to be licensed or registered—documenting their formal education and training—and many of them specifically require that all practicing interior designers earn the NCIDQ Certificate to demonstrate their experience and qualifications. By contrast, interior decorators require no formal training or licensure.¹⁴

¹⁴ National Council for Interior Design Certification, About Interior Design, Differences Between Interior Design & Decorating,

The practice of “interior decoration” is a valid, important and worthy endeavor. Indeed, one of the several Amicus Curiae supporting Appellants’ position is Decorating Dens Systems, Inc. (“Decorating Den”). Years ago, Decorating Den’s chairman boasted that he wanted to have “5,000 white vans with the company’s distinctive rainbow logo on the road by the end of the decade” and he is aiming to have his franchisees sell \$1 billion worth of couches, chairs, wallpaper, draperies and other home furnishings by the year 2000.¹⁵ Today, Decorating Den claims to be “The #1 rated interior decorating and design business franchise... ‘making the world more beautiful, one room at a time.’”¹⁶ If you want to be a franchisee, Decorating Den invites: “For a surprisingly low investment, you too can begin building equity and a real future.” All you need is the “love of decorating, ability to follow a system, great people skills [and] self-confidence” – yet, incredibly “no prior experience necessary.”¹⁷

<http://www.ncidq.org/AboutUs/AboutInteriorDesign/DifferencesBetweenInteriorDesignDecorating.aspx> (last visited May 28, 2010).

¹⁵ Michelle Singleterry, *Owner of Decorating Den has Designs on More Franchises*, Wash. Post, Jan. 10, 1994, at F9.

¹⁶ Entrepreneur.com, *Decorating Den Advertisement appearing in the Complete Franchise Marketplace*, available at <http://www.entrepreneur.com/business-opportunities/interiorsbydecoratingden/61188.html> (last visited May 27, 2010).

¹⁷ Id.

Appellants would have this Court allow a property owner of a non-residential facility, such as a hotel, a hospital or a school, to engage one of these Decorating Den franchisee designers to provide interior design services. Given the complexity of the many services provided by non-residential interior designers and the know-how required to perform such services, the State of Florida thinks otherwise. Accordingly, Florida has a rational basis for regulating non-residential interior designers, and the District Court's determination that the subject statute passes Constitutional muster should be affirmed.

IV. A View From The Trenches.

Appellants would like this Court to believe “[i]nterior design is a creative and expressive occupation.” (Appellants’ Br. at 26.) Appellants argue that “designers are paid primarily for their ideas, *not* their technical know-how or advice.” *Id.* This is not true. Non-residential designers need to know and understand, for example, certain technical matters arising under the American Disabilities Act. The ADA Guidelines provide, among other things, the following:

Carpet. If carpet or carpet tile is used on a ground or floor surface, then it shall be securely attached; have a firm cushion, pad, or backing, or no cushion or pad; and have a level loop, textured loop, level cut pile, or level cut/ uncut pile texture. The maximum pile thickness shall be ½ in (13 mm) (see Fig. 8(f)). Exposed edges of

carpet shall be fastened to floor surfaces and have trim along the entire length of the exposed edge. Carpet edge trim shall comply with 4.5.2.¹⁸

Door Hardware. Handles, pulls, latches, locks, and other operating devices on accessible doors shall have a shape that is easy to grasp with one hand and does not require tight grasping, tight pinching, or twisting of the wrist to operate. Lever- operated mechanisms, push-type mechanisms, and U-shaped handles are acceptable designs.

When sliding doors are fully open, operating hardware shall be exposed and usable from both sides. *Hardware required for accessible door passage shall be mounted no higher than 48 in (1220 mm) above finished floor.*¹⁹

Knee Clearance. Knee clearance that is at least 27 in (685 mm) high, 30 in (760 mm) wide, and 19 in (485 mm) deep shall be provided underneath sinks.²⁰

¹⁸ Department of Justice, *ADA Standards for Accessible Design: Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities* § 4.5.3 (July 1 1994), available at <http://www.ada.gov/adastd94.pdf>.

¹⁹ *Id.* at § 4.13.9.

²⁰ *Id.* at § 4.24.3.

Faucets. Faucets shall comply with 4.27.4. Lever-operated, push-type, touch-type, or electronically controlled mechanisms are acceptable designs.²¹

Mounting Height. The highest operable part of the telephone shall be within the reach ranges specified in 4.2.5 or 4.2.6.²²

Appellants would like this Court to believe that a franchise decorator working on a hotel project needs no understanding of the following concepts:

- Building codes, laws, regulations, life safety standards (movement, stairs, corridors, ramps, exits) and requirements; welfare;
- Lighting fixtures and lamps selection, application and specifications, Building systems (mechanical, electrical, plumbing, structural);
- Working drawings for non-load bearing interior construction;
- Permitting processes;
- Specifications for non-load bearing interior construction;
- Reflected ceiling systems, plans and specifications;
- Electrical plans and preliminary specifications;
- Schedules;

²¹ Id. at § 4.24.7.

²² Id. at § 4.31.3.

- Analysis of life safety requirements;
- Data/voice telecommunication system and plans;
- Fire and life-safety principles (compartmentalization, detection, and suppression);
- Non-load bearing interior construction systems and methods;
- Acoustics;
- Lighting/day-lighting systems;
- Security systems;
- As-built drawings;
- Power distribution systems and plans;
- Energy management; and
- Indoor air quality²³

This is simply not true. The knowledge required to safely design a hotel project is gained from both experience and education. The State of Florida has a legitimate, constitutional right to mandate that only a licensed interior designer, with all of the requisites, education, experience and qualifications be permitted to practice non-residential interior design. Accordingly, Florida has a rational basis for regulating

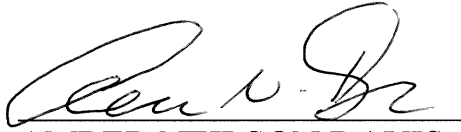
²³ Caren S. Martin and Denise A. Geurin, *The Interior Design Profession's Body of Knowledge (2005)*, available at <http://www.careersininteriordesign.com/idbok.pdf>

non-residential interior designers, and the District Court's determination that the subject statute passes Constitutional muster should be affirmed.

CONCLUSION

For all of the reasons set forth in this Brief and for the reasons stated in the Answering Brief of Appellees, this Court should affirm the decision of the Court below finding a rational basis for the interior design licensing law of the State of Florida.

Respectfully submitted.

A handwritten signature in black ink, appearing to read "Amber Neilson Davis", written over a horizontal line.


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CERTIFICATE PURSUANT TO FED. R . App.P. 32 (a)(7)

I, Amber Neilson Davis, hereby certify that I have complied with the type volume limitations imposed by Fed.R.App.P. 32(a)(7). I hereby certify that I have confirmed through a word count of a word processing system that the total number of words in this brief (excluding the Table of Contents and Table of Authorities) is 4,365.

Respectfully submitted.

A handwritten signature in black ink, appearing to read "Amber N. Davis", written over a horizontal line.

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AFFIDAVIT OF SERVICE

DOCKET NO. 10-11052-EE

-----X

Eva Locke, et al.,

vs.

Joyce Shore, et al.

-----X

EDWARD T. O'CONNELL
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I, GARFIELD, NJ 07026 wear under the pain and penalty of perjury, that according to law and being over the age of 18, upon my oath depose and say that:

on June 7, 2010

I served the within Brief for Amicus Curiae American Society of Interior Designers, Inc. in Support of Appellees in the above captioned matter upon:

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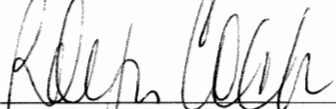
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via **Express Mail** by depositing **2** copies of same, enclosed in a post-paid, properly addressed wrapper, in an official depository maintained by United States Postal Service.

Unless otherwise noted, copies have been sent to the court on the same date as above for filing via Express Mail.

Sworn to before me on June 7, 2010



Robyn Cocho
Notary Public State of New Jersey
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Commission Expires January 8, 2012



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