

**No. 08-00215-CV**

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In the Court of Appeals  
For the Eighth Judicial District  
El Paso, Texas

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STATE OF TEXAS,  
*APPELLANT,*

v.

BENNY & BENNY CONSTRUCTION COMPANY AND HIGHLAND HOMES, LTD.,  
*Appellees.*

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On Appeal from the 166<sup>th</sup> District Court of Bexar County

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**JOINDER OF AMICUS CURIAE TEXAS APPELEED IN BRIEF OF AMICI  
CURIAE TEXAS ACCESS TO JUSTICE COMMISSION AND TEXAS ACCESS  
TO JUSTICE FOUNDATION**

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TO THE HONORABLE EIGHTH COURT OF APPEALS:

Texas Appleseed, as amicus curiae, joins in the amicus curiae brief filed by Access to Justice Foundation and the Texas Access to Justice Commission (“Access to Justice Amici”) and respectfully submits this joinder *amicus curiae* in support of Appellee Highland Homes, Ltd. (“Highland Homes”).

**STATEMENT OF INTEREST OF AMICUS CURIAE**

Texas Appleseed is a nonprofit organization that seeks to promote social and economic justice for all Texans by identifying and implementing practical solutions to difficult systemic problems with the help of volunteer lawyers and other professionals. Its efforts have included work on a broad range of issues including: increasing diversity in Texas law schools, disaster relief and recovery, foster care, fair financial services and remittances, immigration court and detention fairness, justice for mentally impaired defendants, education and school discipline, juvenile justice, and fair defense of indigent criminal defendants in Texas. Publications of Texas Appleseed have included: *Improving the Lives of Children in Long-Term Foster Care: The Role of Texas’ Courts & Legal System* (2010); *Ticketing, Arrest & Use of Force in Schools* (2010); *Texas’ School to Prison Pipeline—School Expulsion, The Path from Lockout to Dropout* (2010); *Justice for Immigration’s Hidden Population* (2010); *Short Term Cash, Long-term Debt: the Impact of Unregulated Lending in Texas* (2009); *Remittance Transparency: Strengthening Business, Building Community* (2009); *From “Easy Credit” to Credit Crisis: Subprime Loans and Foreclosures in Texas* (2008); *Improving the Market for International Remittances* (2007); *A Continuing Storm: The Ongoing Struggles of Hurricane Katrina Evacuees* (2006); *The Role of Mercy, Safeguarding Justice in Texas Through Clemency Reform* (2005); *Banking Immigrant Communities: A Toolkit for Banks and Credit Unions* (2004-2006);

*Immigrant Financial Services: Guide for Non-profits* (2004); *Fair Defense Act: Juvenile Implementation* (2001); and *Fair Defense Report: Analysis of Indigent Defense Practices* (2000).

Texas Appleseed has also published and distributed numerous handbooks, monographs, and other resources for judges, lawyers, families, and other participants in the legal system, including: *Creating Flexibility from the Bench: Meeting the Needs of Juveniles with Mental Impairment* (2009); *A Judicial Resource: Protecting Constitutional Rights of Defendants with Mental Impairments* (2006); *Judicial Options: Personal Bond Statutes and Defendants with Mental Illness or Mental Retardation* (2006); *Finding the Path to Equal Justice: A Handbook for Defendants with Mental Retardation and Their Families* (2005); *Opening the Door: Justice for Defendants with Mental Retardation* (2005); *Finding Help When You're In Trouble: A Handbook for Persons with Mental Illness and Their Families* (2005); *Mental Illness, Your Client and The Criminal Law: A Handbook for Attorneys Who Represent Persons with Mental Illness* (2005); *El Camino Hacia La Igualdad en La Justicia: Manual para Los Acusados Con Retraso Mental Y Sus Familias* (2005); *Navigating the Juvenile Justice System: A Handbook for Juveniles and Their Families* (2004); *Navegando el Sistema de Justicia para Menores: Un Manual para Menores de Edad y Sus Familias* (2003); *Encontrando Ayuda Cuando Usted Esta En Problemas Con La Ley: Un Manual para Personas Con Enfermedades Mentales y Sus Familias* (2003), and numerous financial education brochures in both Spanish and English.

Texas Appleseed's accomplishments and leadership have been widely recognized and garnered awards such as the 2009 Best of the Best Award from El Paso's Invest in the American Dream Initiative, the 2006 Education Research Award from the Texas Association on Mental Retardation, the 2005 Pioneer Award from the Texas New Alliance Task Force, and the 2002 W. Frank Newton Award from the State Bar of Texas.

Texas Appleseed is affiliated with the National Appleseed and is one of 16 members of the Appleseed network in 15 states and Mexico City. Information about Texas Appleseed, its work, and publications may be found at [www.texasappleseed.net](http://www.texasappleseed.net). A list of its Board of Directors is attached as Exhibit A for informational purposes.

As a nonprofit organization devoted to helping underserved Texans and addressing systemic problems, Texas Appleseed is acutely aware of the funding challenges facing many worthy programs and organizations, including the conditions so ably stated by Access to Justice Amici in their brief. While Texas Appleseed has, to date, never received a cy pres award from a class action law suit, it would be pleased to do so and is aware that National Appleseed and Appleseed Centers in other states have received and are actively seeking such funding. Texas Appleseed believes that cy pres funds are an important and well-recognized source of funding for various worthy programs and nonprofits and that such awards can, and should be, allocated as approved by a Court through class action settlements.

In compliance with Texas Rule of Appellate Procedure 11(c), Amicus states that no fee was charged or paid for the preparation of this brief.

#### **ADOPTION OF PORTIONS OF HIGHLAND HOMES'S BRIEF**

Amicus adopts the list of parties and counsel, the issue presented, and the statement of facts in Highland Homes's Brief of Appellee.

#### **JOINDER IN ARGUMENT OF THE ACCESS TO JUSTICE AMICI**

Because this case presents an issue of the greatest importance to charitable organizations and nonprofits that provide various services and programs that benefit Texans, Texas Appleseed joins and adopts the brief submitted by the Access to Justice Amici and urges the Court to affirm the judgment below.

**CONCLUSION**

For the foregoing reasons, Texas Appleseed urges the Court to affirm the district court's Final Judgment approving the settlement agreement.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of this **JOINDER OF AMICUS CURIAE TEXAS APPLESEED IN BRIEF OF AMICI CURIAE TEXAS ACCESS TO JUSTICE COMMISSION AND TEXAS ACCESS TO JUSTICE FOUNDATION** was served upon the following counsel of record by e-mail and certified mail, return receipt requested, on \_\_\_\_\_, 2011:

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