

045

IN THE SUPREME COURT OF  
FLORIDA

**FILED**

SID J. WHITE

CASE NO. 78,752  
DCA-3 91-165

OCT 21 1991

CLERK, SUPREME COUR

By [Signature]  
Chief Deputy Clerk

RAUL R. SOTOLONGO,  
PETITIONER, APPELLEE

VS .

ROBERT M. BRAKE,  
RESPONDENT, APPELLANT

JURISDICTIONAL BRIEF

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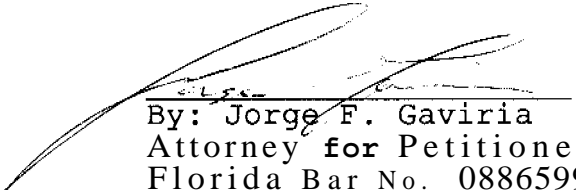
attorneys fees shall control and the court shall not disturb it.

The 4th DCA took a similar approach to the 2nd DCA in Thomas v. Thomas, 418 So 2d 316 (Fla. 4th DCA 1982) without the benefit of Rowe. In Thomas, the Court reversed the lower court and held that the attorneys fees taxed against the spouse shall equal the agreed upon fees between the attorney and the spouse. Id.

In Faust v. Faust, 553 So 2d 1275 (Fla. 1st DCA 1989), the Court found that there was uncontroverted evidence that the wife was required to fee-bargain with her attorney from an inferior financial position which resulted in an otherwise unreasonably low fee arrangement. Therefore, the Court held that the attorney client agreement should not be the deciding factor in awarding attorneys fees in domestic relation cases. Id. at 1278.

#### CONCLUSION

The 3rd DCA's decision in the case sub judice is in direct conflict with other jurisdictions. Namely, the 2nd and 4th DCA have taken the opposite view, while the 1st DCA reached the same conclusion as the 3rd DCA but used logic and interpretation that is compatible with the 2nd and 4th DCA and thus, in conflict with the 3rd DCA. It is therefore, respectfully requested that this Honorable Court exercise its discretionary jurisdiction to resolve the aforementioned conflicts.



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I hereby certify that a true and correct copy of the foregoing was mailed this 18th day of October, 1991 to:

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