

Supreme Court of Florida

ORIGINAL

No. 79,470

VALUE RENT-A-CAR, INC.,

Petitioner,

vs.

COLLECTION CHEVROLET, INC.,

Respondent.

[October 1, 1992]

PER CURIAM.

We have for review Collection Chevrolet, Inc. v. Value Rent-a-Car, Inc., 595 So.2d 98 (Fla. 3d DCA 1992), which acknowledged conflict with Timmons v. Combs, 579 So.2d 840 (Fla. 1st DCA 1991), quashed, No. 78,272 (Fla. July 9, 1992), and Westover v. Allstate Insurance Co., 581 So.2d 988 (Fla. 2d DCA 1991). We have jurisdiction. Art. V, § 3(b)(3), Fla. Const.

The district court below expressly based its holding on its prior opinion in Memorial Sales, Inc. v. Pike, 579 So.2d 778 (Fla. 3d DCA 1991), which we approved in Timmons, slip op. at 6. Accordingly, we approve the opinion below, and disapprove the opinion in Westover v. Allstate Insurance Co., 581 So.2d 988 (Fla. 2d DCA 1991), to the extent it conflicts with our opinion here. This cause is remanded to the trial court for further proceedings consistent with this opinion and with Timmons.

It is so ordered.

BARKETT, C.J., and OVERTON, McDONALD, SHAW, GRIMES, KOGAN and HARDING, JJ., concur.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED.

Application for Review of the Decision of the District Court of
Appeal - Certified Direct Conflict of Decisions

Third District - Case No. 91-1008

(Dade County)

Keith T. Grumer of Keith, Mack, Lewis, Cohen & Lumpkin, Miami,
Florida,

for Petitioner

James C. Blecke and Thomas J. Caldwell, Miami, Florida,

for Respondent