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CLERK SUPREME COURT

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IN THE SUPREME COURT, STATE OF FLORIDA
TALLAHASSEE, FLORIDA
PETITION NUMBER 82,029
APPEAL NUMBER: 2ND DCA 92-03806
L.T. CASE NO. 90-2800CA

IN RE:

EEZZZZ-ON TRAILERS, INC.,

Petitioner,

vs.

BANKERS INSURANCE COMPANY,

Respondent.

_____ /

PETITIONER'S JURISDICTIONAL BRIEF

GEORGE A. ROUTH, ESQUIRE
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Clearwater, Florida 34616
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Attorney for Petitioner
SPN# 803702
Fla. Bar # 069069

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OTHER AUTHORITIES CITED

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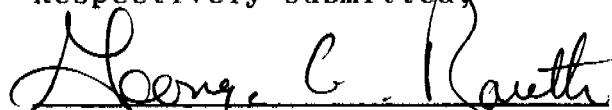
STATEMENT OF GROUNDS FOR INVOKING JURISDICTION AND FACTS

This Court has jurisdiction as authorized by Fla.R.App.P., 9.030(a)(2)(iv), to review EZZZZ-ON TRAILERS, INC., vs. BANKERS INSURANCE COMPANY, Fla. 2nd DCA Case No. 92-03806 (June 9, 1993) in which the Second District Court of Appeal acknowledges conflict with its sister courts. Sonara v. Star Casualty Inc. Co., 603 So. 2d 661 (Fla. 3d DCA 1992); State Farm Fire & Casualty Co. v. Palma, 585 So. 2d 329 (Fla. 4th DCA 1991); Ganson v. State, Dep't of Administration, 554 So 2d 522 (Fla. 1st DCA 1989); rev'd on other grounds, 566 So. 2d 791 (Fla. 1990); Gibson v. Walker, 380 So. 2d 531 (Fla. 5th DCA 1980). (A.1-2) Petitioner has no other available appellate review process.

Under Section 627.428 Florida Statutes, (1991) the First, Third, Fourth and Fifth Florida District Courts of Appeal have held that an Attorney is entitled to a fee for litigating the issue of entitlement. The Second District Court of Appeal has held to the contrary creating a conflict with its sister courts.

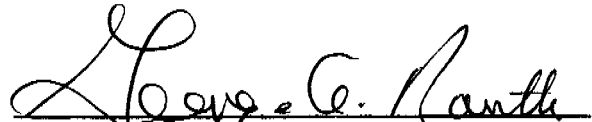
The Court should accept jurisdiction and render an opinion to bring into harmony the conflict existing between the Second District Court of Appeal and the other four Florida District Courts of Appeal. Conflicting opinions between the district courts of appeal of Florida creates doubt and discord within the judicial system.

Respectively submitted,


George A. Routh, Esquire

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by regular U.S. Mail to Steven A. Strickland, Esquire, 605 South Boulevard, Tampa, Florida 33606 this 14th day of July, 1993.



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Opinion filed June 9, 1993
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RECEIVED JUN 09 1993

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA

SECOND DISTRICT

EEZZZZ-ON TRAILERS, INC.,

Appellant,

v.

BANKERS INSURANCE COMPANY,

Appellee.

Case No. 92-03806

Opinion filed June 9, 1993.

Appeal from the Circuit Court
for Pasco County;
W. Lowell Bray, Jr., Judge.

George A. Routh, Clearwater,
for Appellant.

Steven A. Strickland of
Stuart & Strickland, P.A.,
Tampa, for Appellee.

PER CURIAM.

This is an appeal from the trial court's order denying
attorney's fees to appellant's EEZZZZ-ON's attorney. Appellee
Bankers sued its insured EEZZZZ-ON asking the trial court to
declare that EEZZZZ-ON was not covered under its liability
insurance policy for an accident involving one of its trailers.

A.1

EEZZZZ-ON through its attorney defended the action. Bankers later voluntarily dismissed the action and paid EEZZZZ-ON the full amount of the policy limits and the trial court awarded EEZZZZ-ON an attorney's fee for services rendered until that point.

We determine that only one issue merits discussion, that is whether appellant's attorney was entitled to a fee for litigating the issue of attorney's fees. This court in State Farm Mutual Automobile Ins. Co. v. Moore, 597 So. 2d 805, 807 (Fla. 2d DCA 1992) held:

An attorney cannot be awarded fees for time spent litigating the issue of attorney's fees where the client, as prevailing party, has no interest in the fee recovered. U.S. Security Insurance Co. v. Cole, 579 So. 2d 153 (Fla. 2d DCA 1991).

In this case the insured as the prevailing party had no interest in the fee sought by appellant's attorney. Accordingly, we affirm.

We note as we did in Cole that our conclusion puts us in conflict with decisions of our sister courts. See, e.g., Sonara v. Star Casualty Ins. Co., 603 So. 2d 661 (Fla. 3d DCA 1992); State Farm Fire & Casualty Co. v. Palma, 585 So. 2d 329 (Fla. 4th DCA 1991); Ganson v. State, Dep't of Administration, 554 So. 2d 522 (Fla. 1st DCA 1989); rev'd on other grounds, 566 So. 2d 791 (Fla. 1990); Gibson v. Walker, 380 So. 2d 531 (Fla. 5th DCA 1980).

FRANK, A.C.J., PARKER, J., and SCHEB, JOHN M., (Senior) J.,
Concur.