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CLERK, SUPREME COURT

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IN THE SUPREME COURT OF FLORIDA

RAY DEAN RUSSENBERGER,

Petitioner/Former Husband,

SUPREME COURT CASE NO: 82,587

1ST DCA CASE NO: 93-1589

and

CIRCUIT COURT CASE NO: 91-1374

CYNTHIA L. RUSSENBERGER,

Respondent/Former Wife.

RESPONDENT'S JURISDICTIONAL BRIEF

ON REVIEW FROM THE DISTRICT COURT OF APPEAL
FIRST DISTRICT
STATE OF FLORIDA

E. JANE BREHANY, ESQUIRE
MYRICK, SILBER & DAVIS, P.A.
625 North Ninth Avenue
Pensacola, FL 32501
(904) 433-0084
FLORIDA BAR NO: 715042

ATTORNEYS FOR RESPONDENT/
FORMER WIFE

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STATEMENT OF THE CASE AND FACTS

For the purposes of her jurisdictional brief, the Respondent, CYNTHIA L. RUSSEMBERGER, accepts the Petitioner's Statement of the Case and Facts.

ARGUMENT

Ms. Russenberger acknowledges that the Florida Supreme Court has discretionary jurisdiction to review a decision of a District Court of Appeal that expressly and directly conflicts with a decision of another District Court. Art. V, §3(b)(3), Fla. Const. (1980). She further acknowledges that the decisions of the First District Court of Appeal expressly and directly conflict with the decisions of the Fourth District Court of Appeal with regard to the application of Fla.R.Civ.P. 1.360 in proceedings involving custody of children. See In the Interest of T.M.W., 553 So. 2d 260 (Fla 1st DCA 1989) and Gordon v. Smith, 615 So. 2d 843 (Fla. 4th DCA 1993). Accordingly, it is solely within the discretion of this Court as to whether or not jurisdiction should be accepted in this case.

Ms. Russenberger does note, however, that this issue is not one of statewide significance since it simply involves the interpretation of a rule of procedure. Furthermore, if this Court accepts jurisdiction in this case, Mr. Russenberger will once again successfully delay the relocation efforts of his Former Wife. Ms. Russenberger respectfully requests that this Court deny review of this matter in order that the trial court may proceed with the final hearing scheduled on December 13, 1993.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished on the 9th day of November, 1993 to Robert H. Rigsby, Jr., Crystal Collins, Beggs & Lane, P.O. Box 12950, Pensacola, FL 32576-2950 and to T. Sol Johnson, Johnson, Green & Locklin, P.O. Box 605, Milton FL 32572, by U.S. Mail.



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