IN THE SUPREME COURT OF FLORIDA

GUS BOULIS,

Petitioner,

vs. CASE NO. 93,229

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION,

Respondent.
_____/

RESPONDENT'S BRIEF ON THE MERITS

REVIEW OF A QUESTION CERTIFIED BY THE FIFTH DISTRICT COURT OF APPEAL TO BE OF GREAT PUBLIC IMPORTANCE
DCA CASE NO. 97-321

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PRELIMINARY STATEMENT

Gus Boulis, the defendant/appellant below and petitioner here, will be referred to as Boulis. The Florida Department of Transportation, the condemning authority/petitioner/appellee below and respondent here, will be referred to as the Department.

Citations to the record on appeal will be indicated parenthetically as "R" with the appropriate page number(s). Citations to Boulis' brief on the merits will be indicated parenthetically as "PB" with the appropriate page number(s).

The decision of the lower court is currently reported as Boulis v. Department of Transportation, 709 So. 2d 206 (Fla. 5th DCA 1998).

STATEMENT OF THE CASE AND FACTS

The Department accepts Boulis' Statement of the Case and Statement of the Facts as essentially accurate though incomplete. The Department, therefore, submits the following additional information.

Referring to fees and costs, Boulis' trial counsel told the judge at the fee hearing that "we have been very successful in compromising and eliminating a lot of those issues[.]" (R 5) The only claims for expert fees disputed by the Department were those of Ace Blackburn, who the trial judge found to be more of a fact witness (R 231), and O'Grady, whose fee the trial judge reduced. (R 231-232)

SUMMARY OF ARGUMENT

The Department first argues that the Court should not address the merits of the certified question because the lower court's decision is consistent with existing authority and the question does not present an issue of great public importance.

Alternatively, the Department argues that the certified question should be answered in the negative because there is no statutory authority providing for the payment of prejudgment interest on a cost award in an eminent domain proceeding. Moreover, the only eminent domain cases speaking to the question of prejudgment interest in this regard have reversed awards of prejudgment interest on attorney's fees. While the constitutional guarantees of full compensation may create an obligation to pay costs found reasonable by the trial court, it still requires an expression of the Legislature to provide for the payment of interest on that obligation.

The Department also argues that this Court's decision in Quality Engineered Inst. v. Higley South, infra, does not control the instant case. Quality did not address the award of prejudgment interest against the sovereign on an award of costs in an eminent domain proceeding and did not indicate that the distinction between liquidated damages, which are subject to prejudgment interest, and litigation costs, which are not, was no longer viable.

In any event, even if Quality is viewed as requiring the payment of prejudgment interest on costs, it does not so require in eminent domain proceedings because entitlement to costs is not

established until the rendition of the trial judge's order on costs. As a result, there is no period of time prior to rendition of the order during which prejudgment interest could run.

Finally, the Department argues that Boulis' policy argument based on coercive delay should be rejected. Boulis cites no record evidence demonstrating that he was subjected to an unreasonable delay in recovering the costs he was found to be entitled to. Additionally, if a condemnee timely pursues an order awarding costs, any prejudgment delay should be minimal and any postjudgment delay will subject the condemning authority to postjudgment interest on the cost award.

ARGUMENT

ISSUE I

THE COURT SHOULD NOT EXERCISE ITS DISCRETIONARY JURISDICTION TO DECIDE THE MERITS OF THE CERTIFIED QUESTION BECAUSE THE LOWER COURT'S DECISION IS CONSISTENT WITH EXISTING AUTHORITY AND DOES NOT PRESENT A QUESTION OF GREAT PUBLIC IMPORTANCE.

Boulis invoked this Court's jurisdiction pursuant to Article V, Section 3(b)(4) of the Florida Constitution, and Fla. R. App. P. 9.030(a)(2)(A)(v), by virtue of the lower court's certification that its decision passed upon a question of great public importance, to-wit: whether a condemnee is entitled to prejudgment interest on costs necessarily expended by him in preparation for trial.[1] Boulis v. Department of Transportation, 709 So. 2d 206 (Fla. 5th DCA 1998). By Order entered June 24, 1998, this Court postponed its decision on jurisdiction and provided for the service of briefs on the merits.

While it is well settled that this Court will not revisit the issue of whether a question certified by a district court of appeal is in fact one of great public importance, Susco Car Rental System of Florida v. Leonard, 112 So. 2d 832, 834-835 (Fla. 1959), the certification does not bind this Court to address the merits of the

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[1]Boulis has put his own spin on the question suggesting that the "very narrow issue presented is whether a condemnee is entitled to prejudgment interest on costs necessarily expended in defense against FDOT's efforts to obtain his property for less than full compensation." (PB 10) Throughout this brief the Department will be speaking to the uneditorialized version of the lower court's question.

question. Stein v. Darby, 134 So. 2d 232, 237 (Fla. 1961). Specifically, this Court held:

> It is true that in Susco Car Rental System of Florida v. Leonard et al., Fla.Sup., 112 So.2d 832, 834, a majority of this court agreed that such a certificate would withstand a challenge here that the question involved was not one of "great public interest" inasmuch as "the language of Article V [did] not, on its face leave the point open to contest in this forum." But this pronouncement was followed by the statement that "[o]ur jurisdiction in this class of cases is that we '*may* review by certiorari any decision of a district court of appeal * * * that passes upon a *question certified by the district court of appeal to be of great public interest.*'" (Italics were supplied by the writer of that opinion.)
>
> Considering all the language used it is plain that the certificate is necessary to invest this court with the power to adjudicate a question a district court considers of such moment but it does not follow that this court is unalterably bound to decide the question for the pivotal auxiliary verb "may" which the court took the pains to italicize, denotes sanction or authority; it should not be construed as "shall" compelling this court to decide the merits of the question. Zirin v. Charles Pfizer & Co., 128 So.2d 594, 596.

Id.[2] Inasmuch as the Court has postponed its decision on jurisdiction, the Department believes that it would be appropriate to submit that the Court should not exercise its discretionary jurisdiction to decide the merits of the certified question for the following reasons.

First, the lower court correctly observed that no legal

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[2]Article V, Section 3(b)(4) of the current Florida Constitution provides in pertinent part that this Court "**may** review any decision of a district court of appeal that passes upon a question certified by it to be of great public importance..." [Emphasis added]

precedent exists to support an award of prejudgment interest on a condemnee's costs in an eminent domain proceeding. Boulis at 709 So. 2d 206. Indeed, the only cases arising from an eminent domain action, which provide some authority on the issue, reversed an award of prejudgment interest on attorney's fees. State of Florida, Department of Transportation v. Interstate Hotels Corp., #105, 709 So. 2d 1387 (Fla. 3d DCA 1998); State Department of Transportation v. Brouwer's Flowers, Inc., 600 So. 2d 1260 (Fla. 2d DCA 1992). The Second DCA's decision in Brouwer's Flowers was based upon the absence of statutory authority for entitlement to interest on attorney's fees in eminent domain cases before the trial court's determination of the amount of the fee. Id. at 1261. The Third DCA followed this decision in Interstate Hotels. Id. at 1387.

Second, the Interstate Hotels court took note of the Boulis decision and was of the opinion that the lower court had correctly decided the issue and that the decision did not address a question of great public importance. Id. At footnote 2, the court stated:

> We do not share the Fifth District's view that there is anything wrong with this holding, and cannot in any event conceive that it involves an issue of any public importance whatever. Therefore, unlike *Boulis*, we make no certification to the Supreme Court.

Id.

Accordingly, the Court should decline to decide the merits of the certified question.

ISSUE II

ALTERNATIVELY, THE LOWER COURT PROPERLY CONCLUDED THAT BOULIS WAS NOT ENTITLED TO PREJUDGMENT INTEREST ON THE FEES HE PAID HIS SITE SELECTION EXPERT WITNESS, MONNETTE KLINE-O'GRADY.

[Restated by Respondent]

In condemnation proceedings the condemning authority is required to pay "all reasonable costs of the proceedings in the circuit court, including, but not limited to, a reasonable attorney's fee, reasonable appraisal fees, and, when business damages are compensable, a reasonable accountant's fee, to be assessed by that court." Section 73.091, Florida Statutes (1993). Thus, a landowner whose property is taken in a condemnation proceeding is entitled to fees for the services of expert witnesses which go to the establishment of just compensation. Dade County v. Brigham, 47 So. 2d 602, 604 (Fla. 1950); Dept. of Transp. v. Springs Land Inv., 695 So. 2d 414, 417 (Fla. 5th DCA 1997); Sarasota County v. Burdette, 524 So. 2d 1064 (Fla. 2d DCA 1988); Leeds v. City of Homestead, 407 So. 2d 920 (Fla. 3d DCA 1981).

However, it is the duty of the trial judge to inquire into the items of costs and to be satisfied in his discretion that appraisers or other experts are not too numerous nor their charges improper. Dept. of Transp. v. Springs Land Inv., supra; Grinaker v. Pinellas County, 328 So. 2d 880, 881 (Fla. 2d DCA 1976). As this Court cautioned in Dade County v. Brigham, supra, "[i]t does not follow that all expenses to which the defendant elects to put himself in connection with the defense of such a case may be

collected on a costs judgment." Id. at 47 So. 2d 604.

Moreover, it is essential that the expenditure of such fees be reasonably and necessarily incurred in relation to a proper issue in the case. Dept. of Transp. v. Springs Land Inv., supra; State, Department of Transportation v. Woods, 633 So. 2d 94, 95 (Fla. 4th DCA 1994); Leeds v. City of Homestead, supra at 407 So. 2d 921. Typically, expert fees of real estate appraisers, land planners, civil engineers, and accountants where the condemnee had a viable business damages claim, have been recoverable by condemnees as costs in eminent domain proceedings. Sarasota County v. Burdette, supra.

On appeal, the trial judge's disposition of cost issues arising under Section 73.091, Florida Statutes (1993), will be subjected to an abuse of discretion standard of review. Dade County v. Brigham, supra; Dept. of Transp. v. Springs Land Inv., at 695 So. 2d 415 n. 1; Sarasota County v. Burdette, supra; Leeds v. City of Homestead, supra. Here, the trial judge's denial of Boulis' claim for prejudgment interest on the fees he paid his site selection expert was consistent with existing authority and a sound exercise of judicial discretion which the lower court properly upheld.

Urging the contrary, Boulis essentially claims that he was entitled to prejudgment interest on the **entire sum** he paid Monnette Kline-O'Grady, his site selection expert, because the award is mandated by constitutionally guaranteed full compensation. Boulis' claim is grounded upon unsound premises and should be rejected.

The first flaw in Boulis' position lies in his belief that the constitutional guarantee of full compensation requires a condemning authority to pay prejudgment interest on a condemnee's costs. (PB 10-15) Boulis has evidently overlooked the fundamental principle that the Department cannot be required to pay interest except as provided by statute. Division of Admin., Etc. v. Shepard, 382 So. 2d 45 (Fla. 2d DCA 1979), Cert. den., 388 So. 2d 1118 (Fla. 1980). See also Division of Administration, Etc. v. Tsalickis, 372 So. 2d 500 (Fla. 4th DCA 1979); Division of Admin., Dept. of Tr. v. Pink Pussy Cat, Inc., 314 So. 2d 192 (Fla. 1st DCA 1975). Speaking specifically to the assessment of prejudgment interest against the State this Court held:

> the assessment of prejudgment interest against the State is improper because, under the doctrine of sovereign immunity, governmental entities are not liable for interest on their debts unless a statute or contract calls for it. The district court held that "a prevailing party against the state in an action on a state warrant is entitled to prejudgment interest." *Hallandale*, 593 So.2d at 582. However, it has long been established that the government is not liable for interest in the absence of an express statutory provision or stipulation by the government that interest will be paid. *Broward County v. Finlayson*, 555 So.2d 1211 (Fla. 1990); *Flack v. Graham*, 461 So.2d 82 (Fla. 1984); *Board of Public Instruction v. Kennedy*, 109 Fla. 153, 147 So. 250 (1933). The general immunity from interest is an attribute of sovereignty, implied by law for the benefit of the state. *Flack*; *Treadway v. Terrell*, 117 Fla. 838, 158 So. 512 (1935). The state's immunity from interest can be waived. *Flack*; *Florida Livestock Bd. v. Gladden*, 86 So.2d 812 (Fla. 1956); *Treadway*; *Brooks v. School Bd.*, 419 So.2d 659 (Fla. 5th DCA 1982); *Department of Health & Rehabilitative Services v. Boyd*, 525 So.2d 432 (Fla. 1st DCA 1988). Waiver of such immunity occurs when the Legislature

> specifically authorizes suit against a governmental agency by statute without limitation as to interest or when the state enters into a contract fairly authorized by the powers of general law, and an action arises based on the state's breach of the contract. *Pan-Am Tobacco Corp. v. Department of Corrections*, 471 So.2d 4 (Fla. 1984); *Treadway*. However, the law is not absolute and a judicial determination regarding interest may depend on equitable considerations and whether the nature of the claim warrants a prejudgment interest award. *Broward County*; *Flack*. In *Flack*, this Court refused to permit the recovery of prejudgment interest against the state, holding: "'[I]nterest is not recovered according to a rigid theory of compensation for money withheld, but is given in response to considerations of fairness. It is denied when its exaction would be inequitable.'" 461 So.2d at 84 (quoting *Board of Comm'rs v. United States*, 308 U.S. 343, 352, 60 S.Ct. 285, 289, 84 L.Ed. 313, 318 (1939)). Furthermore, "[i]n choosing between innocent victims the Court found it would not be equitable to put the burden of paying interest on the public." *Id.*

State v. Family Bank of Hallandale, 623 So. 2d 474, 479 (Fla. 1993).

Boulis cannot point to either a statute or a contractual obligation requiring the Department to pay prejudgment interest on an award of costs in an eminent domain proceeding. Nor can he cite any authority so holding. While Section 74.061, Florida Statutes (1993) provides for the payment of prejudgment interest "from the date of surrender of possession to the date of payment on the amount that the verdict exceeds the estimate of value set forth in the declaration of taking," no other portion of Chapter 73 or Chapter 74, Florida Statutes, authorizes the payment of interest in an eminent domain proceeding. If, as Boulis suggests, the payment of prejudgment interest is mandated by constitutionally guaranteed

full compensation, then there would have been no need for the Legislature to expressly provide for the payment of prejudgment interest in Section 74.061. Although constitutional provisions create an obligation on behalf of the Department to pay full compensation, it still requires a specific expression of the Legislature to provide for the payment of prejudgment interest on that obligation. State v. Family Bank of Hallandale, supra; Division of Admin., Etc. v. Shepard, supra. Absent such statutory authority, this Court should decline Boulis' invitation to waive the Department's immunity from the assessment of prejudgment interest on a cost award. State of Florida, Department of Transportation v. Interstate Hotels Corp., #105, supra; State Department of Transportation v. Brouwer's Flowers, Inc., supra.[3] See also State, Department of Revenue v. West Flagler Associates, Ltd., 646 So. 2d 853, 854 (Fla. 3d DCA 1994)(Trial court's award of prejudgment interest reversed where there was no statutory authority for that award).

Additionally, this Court has soundly rejected a full compensation argument like Boulis' in Florida East Coast Railway Co. v. Martin County, 171 So. 2d 873 (Fla. 1965). There, the condemnee railroad sought compensation for funds expended to comply

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[3]Boulis contends that Brouwer's Flowers lacks any impact as persuasive authority because it was decided before this Court's decisions in Quality Engineered Inst. v. Higley South, 670 So. 2d 929 (Fla. 1996) and Lee v. Wells Fargo Armored Services, 707 So. 2d 700 (Fla. 1998). (PB 20) The Third DCA had the benefit of both of these opinions when it followed Brouwer's Flowers and reversed an award of prejudgment interest on attorney's fees in an eminent domain proceeding. State of Florida, Department of Transportation v. Interstate Hotels Corp., #105, supra.

with police power regulations at a grade crossing constructed upon property taken from the railroad by the condemning authority. Id. The railroad argued, in part, that this Court had been liberal in its construction of our constitutional provisions as well as our statutory law which provide for full and just compensation to the owner of land which is taken in any eminent domain proceeding. Id. at 877. This Court noted the railroad's position, quoted language from Dade County v. Brigham and Jacksonville Express. Auth. v. Henry G. Du Pree Co., 108 So. 2d 289 (Fla. 1959), and stated:

> We do not recede from Brigham or DuPree, but we do feel that in those cases we probably went the last mile, so to speak.

Id. The Court concluded that the railroad was not entitled to compensation for expenses of compliance with police power regulations. Id. at 877-878.

Next, Boulis' assertion that the distinction between litigation costs and liquidated damages is not viable (PB 15-17) is meritless. Until recently it was well settled that it was reversible error to award prejudgment interest on litigation costs. Kendall Racquetball Investments v. Green Companies, 657 So. 2d 1187, 1189 (Fla. 3d DCA 1995); Williams v. Williams, 619 So. 2d 972, 973 (Fla. 3d DCA 1993). This principle was based upon the premise that an award of prejudgment interest is proper where the damages are liquidated and litigation costs are not liquidated damages. Kendall Racquetball Investments v. Green Companies, supra; Williams v. Williams, supra. See also Cole v. Cole, 648 So. 2d 252, 253 (Fla. 3d DCA 1994); Higley South, Inc. v. Quality Engineered Installation, Inc., 632 So. 2d 615, 621 (Fla. 2d DCA

1994).

But, in Quality Engineered Inst. v. Higley South, 670 So. 2d 929, 930-931 (Fla. 1996), this Court quashed the prejudgment interest portion of the Second DCA's decision in Higley South and, with respect to attorney fees, held that interest accrues from the date the entitlement to attorney fees is fixed through agreement, arbitration award, or court determination, even though the amount of the award has not yet been determined. The opinion did not address the question of entitlement to prejudgment interest on litigation costs. Subsequently, the Second DCA read this Court's decision in Quality as applying to costs as well. In Stoler v. Stoler, 679 So. 2d 837, 838 (Fla. 2d DCA 1996), the court, relying upon this Court's decision, held:

> Finally, we affirm the trial court's finding that interest on attorney's fees and costs accrue from the date of entitlement, and postjudgment interest may accrue on the prejudgment amount. We note that the husband correctly concedes this point.

Neither this Court's decision in Quality nor the Second DCA's decision in Stoler indicate that the distinction between liquidated damages and litigation costs for purposes of awarding prejudgment interest is a thing of the past because this Court did not address the question of prejudgment interest on **costs** in Quality. Instead, the Court quashed "the decision of the district court in respect to prejudgment interest on attorney fees." Quality at 670 So. 2d 931. Moreover, this Court's opinion was silent with regard to the continued viability of the premise that litigation costs are not liquidated damages and therefore do not accrue prejudgment

interest.

Any doubt that the distinction between litigation costs and liquidated damages remains viable was put to rest by this Court's decision in Lee v. Wells Fargo Armored Services, supra. In that case the Court addressed the issue of whether this Court's decision in Quality extended to "permit the accrual of prejudgment interest on attorney's fees, authorized pursuant to the Workers' Compensation Law, from the date entitlement to the fee is determined, when an amount for same has not yet been established[.]" Id. at 707 So. 2d 701. The Court answered the question in the negative holding, in part:

> We give plain meaning to section 440.34(1), Florida Statutes (1993), which provides that an attorney fee cannot be paid until it is approved as reasonable by the JCC or court having jurisdiction over the proceeding. We conclude that this means that there is no statutory authorization for payment of the fee until the reasonableness of the amount is approved by the JCC. It naturally follows that there is no entitlement to interest on attorney fees in a workers' compensation case until the amount of the fee has been approved by the JCC.

Id. at 702.

As is the case with attorney's fees in workers' compensation proceedings, entitlement to, and liquidation of, the amount of costs a condemnee is entitled to recover in an eminent domain proceeding must be established by an order of the trial court. Dade County v. Brigham, supra; Dept. of Transp. v. Springs Land Inv., supra; Grinaker v. Pinellas County, supra. Until entitlement to that sum, if any, is determined and the amount thereof is liquidated by the trial judge's order on costs, there is no period

of time prior to the entry of the order during which prejudgment interest could run.[4]

Similarly uncompelling is Boulis' suggestion that Quality cannot be distinguished from the case at bar. (PB 18-20) In addition to the distinctions discussed next above, neither Quality nor, for that matter, Stoler speak to the award of prejudgment interest against the sovereign in eminent domain proceedings on either attorney's fees or costs. The only cases addressing the issue of prejudgment interest on attorney's fees in eminent domain proceedings have reversed the award of prejudgment interest. State of Florida, Department of Transportation v. Interstate Hotels Corp., #105, supra; State Department of Transportation v. Brouwer's Flowers, Inc., supra.[5] Thus, neither Quality nor Stoler control disposition of the instant case. Prejudgment interest cannot properly be awarded on costs in eminent domain proceedings.

Even if the Court viewed its decision in Quality as holding that prejudgment interest should be awarded on litigation costs, it does not mandate the award of prejudgment interest on costs in an eminent domain proceeding. This Court made it clear that prejudgment interest on attorney's fees(and for the sake of

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[4]Given the fact that the trial judge must ultimately determine the entitlement to, and amount of costs a condemnee will be awarded, Boulis is entirely mistaken in his belief that the jury's verdict on the issue of full compensation operated to liquidate his costs at that time. (See PB 15, 17)

[5]In support of his position Boulis first argues that "attorney fees have long been held to be litigation costs." (PB 18) Then in an effort to question the precedential value of Brouwer's Flowers he observes that Brouwer's Flowers "spoke to prejudgment interest on attorney's fees as opposed to expert witness fees[.]" (PB 20) Boulis cannot have it both ways.

argument, costs) does not accrue until entitlement to the fee (cost) is fixed. Quality Engineered Inst. v. Higley South at 670 So. 2d 930-931. Inasmuch as entitlement to a particular expert's fee in eminent domain proceedings is left to the sound discretion of the trial court, Dade County v. Brigham, supra, Dept. of Transp. v. Springs Land Inv., supra, Grinaker v. Pinellas County, supra, entitlement to the fee is not established until the order awarding the fee is entered. Consequently, as previously argued, there is no period of time prior to the rendition of the costs order during which prejudgment interest on the amount awarded could run.

In his concluding remarks, which are markedly devoid of any significant citations to authority or the record, Boulis advances a policy argument grounded upon what appears to be his counsel's perception of inequities existing in the manner in which condemnees' costs issues are dealt with in eminent domain proceedings. (PB 21-23) The cornerstone of his argument is the proposition that condemning authorities can use delays in paying costs as a means to coerce property owners into accepting substantially reduced reimbursement for fees. Boulis' policy argument is faulty for a number of reasons.

First, with respect to fee and cost issues, Boulis' trial counsel told the judge at the fee hearing that "we have been very successful in compromising and eliminating a lot of those issues," (R 5) and Boulis acknowledges that a majority of the cost issues were resolved by stipulation. (PB 4) The only claims for expert fees disputed by the Department were those of Ace Blackburn, who the trial judge found to be more of a fact witness (R 231), and

O'Grady, whose fee the trial judge reduced. (R 231-232) Coercion indeed.

Second, Boulis points to no record evidence in this case that he was subjected to any unreasonable delay in the payment of costs to which he was found to be entitled.

Third, Boulis has overlooked the requirement that the trial judge determine entitlement to, as well as the amount of, costs. Once a condemnee secures an order awarding expert witness fees, any delay in paying the sums set out in the order will result in the accrual of postjudgment interest. If a condemnee is timely in pursuing an order on costs, any prejudgment delay should be minimal and any postjudgment delay will be subject to interest.

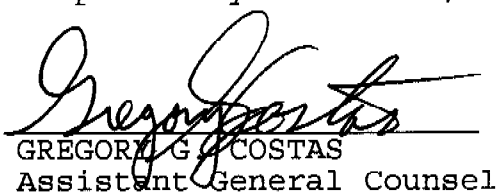
As a final point, the Department notes that Boulis appears to be claiming prejudgment interest on the entire amount he paid O'Grady running from the date of his payment. Boulis' claim is flawed in a very material aspect. Contrary to the authority set out above, accepting Boulis' position would require this Court to hold that the Department, in the absence of a statutory provision or contractual obligation, could properly be charged prejudgment interest on the entire fee Boulis paid O'Grady notwithstanding the fact that the trial judge found that Boulis was entitled to only a portion of the fee. Boulis assumed the risk of foregoing the use of his funds and not being able to recoup the entirety of O'Grady's charges when he elected to pay her bill in full in the face of this Court's admonition that "[i]t does not follow that all expenses to which the defendant elects to put himself in connection with the defense of such a case may be collected on a costs judgment." Dade

County v. Brigham at 47 So. 2d 604. The lower court properly affirmed the trial judge's denial of Boulis' claim for prejudgment interest on the sums he paid O'Grady. The certified question should be answered in the negative and the decision of the lower court should be affirmed.

CONCLUSION

Based upon the foregoing argument and the authority cited herein, the Court should not address the merits of the certified question. Alternatively, the certified question should be answered in the negative and the decision of the Fifth District Court of Appeal should be affirmed.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U. S. Mail on this 4th day of August, 1998, to **DOMINICK J. SALFI, ESQUIRE**, Counsel for Gus Boulis, Law Offices of Dominick J. Salfi, P. A., 999 Douglas Avenue, Suite 3333, Altamonte Springs, FL 32714.

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