

IN THE SUPREME COURT OF THE STATE OF FLORIDA

CASE NO. 02-325

4DCA CASE NO. 01-3764

L.T. CASE NO. 98-9196 (18)

DALLAS G. PRICE and ANGELA  
F. PRICE, his wife

Plaintiffs/Petitioners,

vs.

AVERY L. TYLER and FLORENCE  
TYLER, et al.

Defendants/Respondents

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**PETITIONERS' REPLY BRIEF**

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## SUMMARY OF THE ARGUMENT

After deeding himself the PRICES' property, TYLER objects to paying for the damages he caused because it consists solely of the attorneys' fees incurred in removing his wild deed from the chain of title. The trial court overruled the procedural objections and found the substantive basis to award attorneys' fees. The Fourth District Court of Appeal erroneously reversed the trial court's award, citing this Court's decision in *Stockman v. Downs*, 533 So.2d 835 (Fla. 1991). Because TYLER is charged with the knowledge of the law, including exposure to attorneys fees as compensatory damages in a quiet title claim, no further notice under *Stockman* is required.

## ARGUMENT

### **I. THE PRICES ARE ENTITLED TO RECOVER THEIR PECUNIARY LOSSES INCLUDING SUCCESSFULLY QUIETING TITLE TO TYLER'S WILD DEED AND TYLER DOES NOT NEED NOTICE UNDER STOCKMAN AS HE IS CHARGED WITH KNOWLEDGE OF THE LAW**

#### **A. The Trial Court Overruled TYLER's Procedural Objections to Quiet Title Claim**

The PRICES moved to conform the pleadings to the evidence at the close of trial. Although the trial court did not directly rule upon the motion, the Final Judgment reflects the granting of relief. (Vol. 6, pp 1025-1041) The Final Judgment "quiets title" to the trapezoid. (Vol. 6, pp 1176-1179) The Fourth District affirmed this ruling. *Tyler v. Price*, 821 So.2d 1121, 1126 (Fla. 4<sup>th</sup> DCA 2002). TYLER did not cross appeal. All procedural and substantive objections to the trial court's decision to quiet title are lost.

TYLER objected to the PRICES' request that any attorneys' fees evidence be presented in a separate evidentiary proceeding; the trial court overruled the objection and conducted a separate evidentiary proceeding after finding entitlement. Bifurcating attorneys' fee issues from other evidentiary issues is an accepted trial technique. *Cheek v. McGowan Elec. Supply Co.*, 511 So.2d 977, 979 (Fla. 1987). TYLER's real objection is not with the procedural manner upon which the evidentiary findings were based, but with the substantive fee award.

**B. A Party Is Charged with Notice of the Law and Is Presumed to Have Knowledge of the Damages Asserted in a Claim**

This Court's decisions in *Stockman v. Downs*, 533 So.2d 835 (Fla. 1991) and *Caufield v. Cantele*, 873 So.2d 371 (Fla. 2002) do not expressly address the issue presented by this case, to wit: whether attorneys' fees which are part of the inherent damages in a claim must be separately pled. *Stockman* has not been extended to this class of fees. The purpose of the *Stockman* rule is notice. *Stockman*, at 837. Notice should not be required when attorneys' fees are part of the pecuniary damages suffered as the defending party is charged with knowledge of the law. No further notice is necessary.

Florida law implies knowledge of substantive law in several aspects of real property ownership. Persons owning property are charged with knowledge of relevant laws affecting control of disposition of property and manner in which it may be enjoyed or title thereto affected. *Markham v. Moriarty*, 575 So.2d 1307, 1310 (Fla. 4<sup>th</sup> DCA 1991) (Knowledge of tax laws presumed); *City of Miami Beach v. New Floridian Hotel, Inc.* 324 So.2d 715 (Fla 3<sup>rd</sup> DCA 1976)(Owner of land is chargeable with knowledge of general laws prescribing manner in which it may be enjoyed or title thereto affected). *See also Reading v. Blakeman*, 66 So.2d 682, 683 (Fla. 1953)(Bank charged with knowledge of mechanics lien law regarding priority of liens); *Elmer A.*

*Yelington & Son, Inc. v. Sheridan*, 65 So.2d 44, 45 (Fla. 1953)(Plaintiff charged with knowledge of law required to prosecute action for foreclosure with reasonable dispatch).

In this case, TYLER recorded a deed to property he did not own. In availing himself of the laws and procedures in transferring real property, especially property that he did not own, TYLER is charged with knowledge of the laws governing ownership of real property and the penalties for false assertions of ownership. As Florida law provides for recovery of damages, including attorneys' fees, for quieting title to an interloper's claim, the interloper is charged with the knowledge that he will have to compensate the true title holder for his acts. *Stockman* requires no greater notice.

Because the number of instances where attorneys' fees are part of the substantive claim for damages are rare, declining to extend *Stockman* to this small subset of attorneys' fee issues should not alter the landscape of fee entitlement. TYLER points to those instances where there is a *res* brought to the court and slander of title cases as those rare instances where attorneys' fees are part of the compensatory claim. PRICE includes quiet title claims within that subset. In each instance, the source of entitlement is the substantive law awarding attorneys fees as an element of the compensatory damages. Unlike those circumstances covered in

*Stockman*, where the attorneys fees claim is ancillary to the damage claim, no additional notice is needed.

### **CONCLUSION**

The trial court properly awarded attorneys fees to the PRICES. The Appellate Court erroneously applied *Stockman* to bar the claim when TYLER was already on notice of PRICES' entitlement.

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## **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed this \_\_\_\_ of July, 2003 to: THOMAS R. BOLF, ESQ., Ruden, McClosky, et.al., 200 East Broward Boulevard, 15<sup>th</sup> Floor, P.O. Box 1900, Ft. Lauderdale, FL 33302.

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## **CERTIFICATE OF FONT SIZE AND STYLE**

Counsel for Petitioner hereby certifies that this brief was typed in Times New Roman 14- point font.

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