

Supreme Court of Florida

No. SC05-2065

SUMMIT CLAIMS MANAGEMENT, INC., etc., et al.,
Petitioners,

vs.

LAWYERS EXPRESS TRUCKING, INC., et al.,
Respondents.

[November 22, 2006]

PER CURIAM.

We initially accepted for review the decision of the Fourth District Court of Appeal in Summit Claims Management, Inc. v. Lawyers Express Trucking, Inc., 913 So. 2d 1182 (Fla. 4th DCA 2005), which certified conflict with C & L Trucking v. Corbitt, 546 So. 2d 1185 (Fla. 5th DCA 1989), upon the following question of law:

Whether a workers' compensation insurance carrier that failed to seek its statutory lien until after the tort action concluded, despite having actual knowledge of the proceedings, is entitled to an "equitable lien"?

913 So. 2d at 1183. We have jurisdiction.¹ However, we decline to exercise our discretion to review this case because, upon further review, we determine that no actual conflict exists between the lower courts' opinions in regard to the certified question.

This review proceeding is dismissed.

It is so ordered.

ANSTEAD, PARIENTE, QUINCE, CANTERO, and BELL, JJ., concur.
LEWIS, C.J., and WELLS, J., dissent.

NO MOTION FOR REHEARING WILL BE ALLOWED.

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

Fourth District - Case No. 4D04-2458

(St. Lucie County)

Elizabeth C. Wheeler of Elizabeth C. Wheeler, P.A., Orlando, Florida and Steven
P. Pyle of Steven P. Pyle and Associates, P.A., Winter Park, Florida,

for Petitioners

Michael V. Elsberry and W. Drew Sorrell of Lowndes, Drosdick, Doster, Kantor
and Reed, P.A., Orlando, Florida and Ronald M. Rowars of Ronald M. Rowars,
P.A., Port St. Lucie, Florida,

for Respondents

1. See art. V, § 3(b)(4), Fla. Const.