

Supreme Court of Florida

No. SC05-304

THE DISTRICT BOARD OF TRUSTEES, etc.,
Petitioner,

vs.

DON R. MORGAN, etc.,
Respondent.

[December 15, 2005]

PER CURIAM.

We initially accepted jurisdiction to review District Board of Trustees v. Morgan, 890 So. 2d 1155 (Fla. 5th DCA 2004), a decision by the Fifth District Court of Appeal certifying conflict with the First District Court of Appeal's decision in O'Kon & Co. v. Riedel, 588 So. 2d 1025 (Fla. 1st DCA 1991). See art. V, § 3(b)(4), Fla. Const. Upon further consideration, we have now determined that Morgan and O'Kon & Co. are factually distinct so that the decisions are not in conflict and may live side-by-side in the law of Florida. We therefore exercise our discretion and discharge jurisdiction. Accordingly, this review proceeding is dismissed.

It is so ordered.

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

NO MOTION FOR REHEARING WILL BE ALLOWED.

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

Fifth District - Case No. 5D03-3902

(Putnam County)

David C. Willis and Wendy Vomacka of Rumberger, Kirk and Caldwell, Orlando, Florida,

for Petitioner

Peter A. Robertson and T. J. Frasier of the Robertson Group. P. L., Gainesville, Florida,

for Respondent