

**IN THE SUPREME COURT OF FLORIDA**

CITIZENS PROPERTY  
INSURANCE CORPORATION,

Petitioner,

Case No.: \_\_\_\_\_

v.

L.T. CASE NO.: **1D06-5352**

JON ALLEN DANCY,

Respondent.

\_\_\_\_\_ /

**PETITIONER'S JURISDICTIONAL BRIEF**

On Discretionary Review from the First District Court of Appeal

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## STATEMENT OF THE CASE AND FACTS

This is an insurance claim on a wind-only insurance policy for damage to a house owned by Plaintiff Jon Dancy (“Dancy”) and insured by Defendant Citizens Property Insurance Corporation (“Citizens”). Dancy’s house was destroyed during Hurricane Ivan. Citizens claimed that the total loss was caused by flood, but admitted that there was some wind damage. The district court affirmed a summary judgment which held Citizens liable for policy limits under its wind policy, regardless of whether wind caused the total loss, and with no setoff for the flood insurance benefits Dancy received. A copy of the district court’s decision issued on July 26, 2007, is attached hereto at Tab 1.

In its *per curiam* affirmance, the First District cited as controlling authority its decisions in *Fla. Farm Bureau Cas. Ins. Co. v. Cox*, 943 So. 2d 823 (Fla. 1st DCA 2006), *rev. granted*, *Fla. Farm Bureau Cas. Ins. Co. v. Cox*, 948 So. 2d 758 (Fla. 2007), and *Citizens Prop. Ins. Corp. v. Ueberschaer*, 956 So. 2d 483 (Fla. 1st DCA 2007), *certification granted* (May 25, 2007), *stayed* SC07-1104 (order dated June 20, 2007), both of which are pending in this Court. In *Farm Bureau*, the following question was certified to this Court:

DOES § 627.702(1), FLA. STAT. (2004), REFERRED TO AS THE VALUED POLICY LAW, REQUIRE AN INSURANCE CARRIER TO PAY THE FACE AMOUNT OF THE POLICY TO AN OWNER OF A BUILDING DEEMED A

TOTAL LOSS WHEN THE BUILDING IS  
DAMAGED IN PART BY A COVERED PERIL  
BUT IS SIGNIFICANTLY DAMAGED BY AN  
EXCLUDED PERIL?

In *Ueberschaer*, the following question was certified to this Court:

DOES THE ENABLING STATUTE FOR CITIZENS  
PROPERTY INSURANCE CORPORATION,  
§ 627.351(6), FLA. STAT. (2004), PRECLUDE AN  
AWARD OF POLICY LIMITS UNDER THE VALUED  
POLICY LAW, § 627.702(1), FLA. STAT. (2004),  
WHEN THE COVERED PERIL OF WINDSTORM  
AND THE EXCLUDED PERIL OF FLOOD COMBINE  
TO PRODUCE A TOTAL LOSS TO THE INSURED  
PROPERTY?

This Court heard argument in *Farm Bureau* on June 7, 2007. On June 20, 2007,  
this Court stayed *Ueberschaer* pending its disposition of *Farm Bureau*.

**SUMMARY OF ARGUMENT**

This Court has jurisdiction over this case. The First District's decision relied  
on its decisions in *Farm Bureau* and *Ueberschaer*, which are currently pending in  
this Court. The present case is thus a "piggyback" case, over which this Court has  
jurisdiction.

**ARGUMENT**

In affirming the summary judgment against Citizens, the First District cited  
*Farm Bureau* and *Ueberschaer* as controlling authority, both of which are  
presently pending in this Court. This citation PCA created a type of discretionary

conflict jurisdiction this Court recognized in *Jollie v. State*, 405 So. 2d 418 (Fla. 1981).

This is a case in which the Court should exercise its discretion in favor of jurisdiction. The controlling cases that are pending in this Court involve questions certified as being of great public importance. This case involves the same issues. This case is important for its determination that Florida's Valued Policy Law, § 627.702, Fla. Stat. (2004), requires a wind-only insurer to pay its policy limits even though wind did not cause the total loss. *Ueberschaer* also involves the additional issue of whether Citizens' enabling legislation conflicts with the Valued Policy Law and precludes an interpretation of the Valued Policy Law which would require Citizens to pay for flood damage.

Because the instant case involves the same issues as *Farm Bureau* and *Ueberschaer*, and *Farm Bureau* and *Ueberschaer* are controlling contemporaneous or companion cases pending in this Court, Citizens requests that this Court also review this case to promote uniformity of decisions.

**CONCLUSION**

Based upon the foregoing argument, reasoning and citation of authority, Petitioner requests this Court exercise its discretion to accept jurisdiction of this case and order briefing on the merits.

Dated this \_\_\_\_ day of September, 2007.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail to Eric P. Sventek, Esq., co-counsel for Appellee, 601 N. Baylen Street, Pensacola, FL 32501; Louis K. Rosenbloum, Esq., co-counsel for Appellee, 4300 Bayou Boulevard, Suite 36, Pensacola, FL 32503; and John A. Unzicker, Jr., Esq., co-counsel for Appellant, 315 South Palafox Street, Pensacola, FL 32502, on this \_\_\_\_ day of September, 2007.

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Attorney

**CERTIFICATE OF COMPLIANCE  
REGARDING TYPE SIZE AND STYLE**

Petitioner certifies that the text of this Jurisdictional Brief complies with the font requirements set forth in Fla. R. App. P. Rule 9.210.

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Attorney