

IN THE SUPREME COURT
STATE OF FLORIDA

SYSTEM COMPONENTS CORPORATION,

Petitioner,

v.

CASE NO. SC08-1507

STATE OF FLORIDA,
DEPARTMENT OF TRANSPORTATION,

Respondent.

_____ /

JURISDICTIONAL BRIEF OF RESPONDENT,
STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION

ON PETITION FOR REVIEW OF A DECISION
OF THE DISTRICT COURT OF APPEAL
FIFTH DISTRICT, STATE OF FLORIDA
CASE NO. 5D06-2864

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PRELIMINARY STATEMENT

System Components Corporation, the defendant/appellant below and petitioner here, will be referred to as Petitioner. The State of Florida, Department of Transportation, the petitioner/appellee below and respondent here, will be referred to as Respondent.

Citations to Petitioner's brief on jurisdiction will be indicated parenthetically as "JB." with the appropriate page numbers. Citations to the appendix accompanying this brief will be indicated parenthetically as "A." with the appropriate page numbers.

The decision of the lower court is currently reported as System Components Corporation v. Department of Transportation, 33 Fla. L. Weekly D1702 (Fla. 5th DCA July 3, 2008).

STATEMENT OF THE CASE AND FACTS

For the purpose of resolving the jurisdictional issue before the Court, the Department accepts Petitioner's Statement of the Case and Facts. (JB. 1-2)

SUMMARY OF ARGUMENT

In a case having no material factual distinction, the lower court announced a rule of law governing the admission of off-site cure evidence in eminent domain business damage claim litigation which expressly and directly conflicts with a rule previously announced by the Fourth District Court of Appeal in State Dep't of Transp. v. Tire Centers, 895 So. 2d 1110 (Fla. 4th DCA 2005), Rev. den., 915 So. 2d 1196 (Fla. 2005). This Court has jurisdiction to exercise its discretionary review in this matter.

ARGUMENT

ISSUE

THE LOWER COURT'S DECISION HEREIN EXPRESSLY AND DIRECTLY CONFLICTS WITH A DECISION OF THE FOURTH DISTRICT COURT OF APPEAL.

A. Standard of Review

It is well settled that this Court's jurisdiction to review decisions of district courts of appeal pursuant to Article V, Section 3(b)(3) of the Florida Constitution, and Florida Rule of Appellate Procedure 9.030(2)(A)(iv) on the basis of conflict is invoked by (1) the announcement of a rule of law which conflicts with a rule previously announced by this Court or another district court, or (2) the application of a rule of law to produce a different result in a case which involves substantially the same facts as a prior case. Mancini v. State, So. 2d 732, 733 (Fla. 1975). Speaking to the concept of "direct conflict" this Court held that the term is employed in Article V of the Florida Constitution to manifest a concern with decisions as precedents as opposed to adjudication of the rights of particular litigants. Mystan Marine, Inc. v. Harrington, 339 So. 2d 200 (Fla. 1976).

B. The Fourth District Court of Appeal's Decision In Tire Centers Is In Express And Direct Conflict With The Fifth District Court of Appeal's Decision In System Components.

As Respondent acknowledged and the Fifth District Court of Appeal confirmed below, there is no material distinction in the facts or the dispositive legal issue addressed by the Fourth District Court of Appeal in Tire Centers and the Fifth District Court of Appeal in the instant case. (A. 7, 11) Both cases involved a claim for business damages based upon the total destruction of a business caused by a partial taking of land for public road improvements. (A. 1-2, 7) In both cases the condemning authority sought to introduce evidence of an off-site cure of business damages based upon the actual relocation of the business. (A. 3, 7-8) The Tire Centers court concluded that such evidence was inadmissible and the Fifth District Court of Appeal reached the contrary conclusion in the case at bar. Tire Centers, 895 So. 2d at 1113; (A. 10-11).

On virtually identical facts the Fifth District Court of Appeal, in System Components, announced a rule of law governing the admission of off-site cure evidence in eminent domain

business damage claim litigation which conflicts with a rule previously announced by the Fourth District Court of Appeal in Tire Centers. Resolution of this conflict will go far beyond an adjudication of the rights of the particular litigants before the Court. The Court's disposition of this matter will establish long awaited precedent that will affect every condemning authority in the State as well as every Florida business destroyed by a partial taking of land for public use.

Accordingly, this Court has jurisdiction to exercise its discretionary review herein pursuant to Article V, Section 3(b)(3) of the Florida Constitution, and Florida Rule of Appellate Procedure 9.030(2)(A)(iv). Respondent respectfully urges the Court to do so.

CONCLUSION

The lower court's decision is in express and direct conflict with the Fourth District Court of Appeal's decision in Tire Centers. This Court has a proper jurisdictional basis to exercise its discretionary review pursuant to Article V, Section 3(b)(3) of the Florida Constitution, and Florida Rule of Appellate Procedure 9.030(2)(A)(iv).

WHEREFORE, Respondent, State of Florida, Department of Transportation, respectfully requests this Honorable Court grant review herein.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy hereof has been furnished via United States Mail on the _____ day of August, 2008, to counsel for the Petitioner, Marty Smith, Esquire, and Ann Melinda Craggs, Esquire, Bond, Arnett, Phelan, Smith & Craggs, P.A., Post Office Box 2405, Ocala, Florida 34478-2405.

GREGORY G. COSTAS

CERTIFICATE OF TYPEFACE COMPLIANCE

I HEREBY CERTIFY that a copy hereof has been furnished to the foregoing has been prepared using Courier New 12 point font.

GREGORY G. COSTAS

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STATE OF FLORIDA

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Petitioner,

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APPENDIX TO
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