

>> SUPREME COURT OF FLORIDA IS  
NOW IN SESSION.

THE HONORABLE CHIEF JUSTICE  
CHARLES T. CANDY PRESIDING.

>> GOOD MORNING, AND WELCOME TO  
THIS REMOTE SESSION OF THE  
FLORIDA SUPREME COURT.

WE WILL NOW TAKE UP THE CASE OF  
SUAREZ TRUCKING V. SOUDERS.  
COUNSEL?

>> MAY IT PLEASE THE COURT, MY  
NAME'S KANSAS GOODEN, I  
REPRESENT SUAREZ TRUCKING.  
I'D LIKE TO RESERVE FOUR MINUTES  
FOR REBUTTAL.

A SETTLEMENT WAS REACHED IN THIS  
CASE WHEN SUAREZ TRUCKING FILED  
A WRITTEN NOTICE OF ACCEPTANCE  
IN THE TRIAL COURT.

FLORIDA STATUTE 768.79 STATES AN  
OFFER SHALL BE ACCEPTED BY  
FILING A WRITTEN NOTICE OF  
ACCEPTANCE WITH THE COURT WITHIN  
30 DAYS AFTER SERVICE.

THE LEGISLATURE MANDATED HOW A  
PROPOSAL FOR SETTLEMENT IS  
ACCEPTED.

AND WHEN THE LEGISLATURE  
PRESCRIBES THE MODE, THAT MODE  
MUST BE OBSERVED.

AND IT ESSENTIALLY IS A  
PROHIBITION OF IT BEING DONE ANY  
OTHER WAY.

AND THIS STATUTE SIMPLY REQUIRES  
A WRITTEN ACCEPTANCE, NOTHING  
MORE.

IT DOESN'T REQUIRE -- DESPITE  
WHAT THE SECOND DCA HELD -- THAT  
THE PARTIES PARROT BACK EACH AND  
EVERY TERM OF THE PROPOSAL FOR  
SETTLEMENT.

IT SIMPLY HAS TO SAY I ACCEPT.

>> COUNSEL, I'M SORRY TO  
INTERRUPT --

>> IF I COULD ASK YOU THIS,  
COUNSEL: NOW, THERE'S REALLY NO  
SUGGESTION THAT THE PARTIES WHO  
WISH TO SETTLE A CASE HAVE TO  
OPERATE UNDER THIS STATUTE.  
IF THEY JUST WANT TO SETTLE IT  
WITHOUT REFERENCE TO THE  
STATUTE, THEY -- THEY DON'T GET  
THE BENEFIT OF THE STATUTE, BUT

THEY ARE NOT PRECLUDED FROM DOING THAT.  
BUT IF THEY WANT THE BENEFIT OF THE STATUTE, THEY HAVE TO OPERATE UNDER THE STATUTE, ISN'T THAT CORRECT?

>> 100%, YOUR HONOR.

AND SOUDERS MADE THAT DELIBERATE DECISION HERE TO OPERATE UNDER THE STATUTE.

>> CAN I ASK YOU A QUESTION?  
SO PART OF THIS CASE HAS TO DO WITH THE ACCEPTANCE ISSUE, BUT THEN THE OTHER PART OF IT HAS TO DO WITH EVEN IF WE AGREE WITH YOU THAT THERE WAS AN ACCEPTANCE OF SOME KIND WHETHER THE AGREEMENT WAS BREACHED.  
AND WITH REGARD TO THAT SECOND ISSUE, WHAT IS THE LEGAL SIGNIFICANCE OF THE FACT THAT BEFORE THE ACCEPTANCE AND BEFORE SERVING THE CHECK, THAT APPARENTLY COUNSEL FOR EACH SIDE COMMUNICATED DIRECTLY ON THIS ISSUE OF SATISFYING THE LIEN AND THAT THE, ON THE PLAINTIFF SIDE IT WAS CLEARLY COMMUNICATED THAT THAT WAS NOT ACCEPTABLE, THAT THE CHECK HAD TO BE JUST MADE OUT TO THE PLAINTIFF ALONE?  
DOES THAT HAVE ANY LEGAL RELEVANCE HERE?

>> NO.

AND IF YOU TURN TO, ACTUALLY, RULE 1.442, IT STATES THAT ORAL COMMUNICATIONS DO NOT CONSTITUTE A COUNTEROFFER OR A REJECTION WHATSOEVER.

WHAT WAS HAPPENING HERE WAS JUST TRYING TO SEEK CLARIFICATION BECAUSE THE DEFENSE WAS IN A CATCH 22.

THIS WAS A VALID, KNOWN LIEN THAT THEY JUST WANTED TO MAKE SURE WAS TAKEN CARE OF.

AND IF YOU DO LOOK AT THE RECORD, THERE WERE DISPUTED STATEMENTS REGARDING EXACTLY WHAT HAPPENED.

YOU KNOW, SUAREZ TRUCKING TAKES THE POSITION THAT THAT CONVERSATION WAS WILL YOU MAKE ASSURANCES THAT THIS LIEN WILL

BE TAKEN CARE OF, AND THE  
PLAINTIFF'S ATTORNEY AT THE TIME  
SAID, NO, I'M NOT GOING TO GIVE  
YOU ASSURANCES.  
AND THOSE ASSURANCES CAME LATER.  
THE PLAINTIFF'S ATTORNEY AT THE  
HEARING, I BELIEVE, SAID, WELL,  
THIS WAS ABOUT A RELEASE.  
THEY WERE ASKING ABOUT A  
RELEASE.  
SO THERE WERE DISPUTED  
STATEMENTS BELOW REGARDING THOSE  
CONVERSATIONS.  
BUT ULTIMATELY, I DON'T THINK  
THOSE DISPUTED STATEMENTS REALLY  
GO ONE WAY OR THE OTHER, BECAUSE  
I THINK THE ISSUE IS TRULY A  
LEGAL ISSUE.  
AND IT KIND OF --  
>> WHICH IS WHAT THOUGH?  
AND SO WHAT'S THE LEGAL ISSUE AS  
YOU SEE IT?  
ON THE BREACH QUESTION.  
>> ON THE BREACH, KIND OF WHAT'S  
THE REMEDY.  
>> HOLD ON.  
BEFORE WE GET TO THE REMEDY  
THOUGH, DO WE, DO WE -- IF WE  
READ THIS, IF WE READ THE  
PROPOSAL FOR SETTLEMENT AND WE  
SEE WHERE IT SAYS DEFENDANTS  
SHALL PAY \$500,000 TO THE  
PLAINTIFF WITHIN 10 DAYS FROM  
THE DATE OF ACCEPTANCE, IF WE  
READ THAT AS ON ITS FACE  
REQUIRING PAYMENT TO THE  
PLAINTIFF AND NOT TO ANYONE  
ELSE, DO YOU LOSE?  
>> NO.  
>> OKAY.  
WHY NOT?  
>> WE DO NOT, BECAUSE STATUTE  
CONTROLS AND WE HAVE A VALID  
SETTLEMENT AGREEMENT.  
AND SO THAT'S WHEN WE WOULD GET  
REMANDED FOR A JUDGMENT OF  
\$500,000, AND THEN THERE WOULD  
BE A FURTHER DETERMINATION OF  
WHATEVER THIS WORK COMP LIEN IS.  
>> THERE I THINK YOU FACE  
ANOTHER CATCH 22, TO USE A  
PHRASE YOU USED.  
SO LET'S SAY WE AGREE WITH YOU  
THE STATUTE CONTROLS AND IT

SHOULD INFLUENCE, YOU KNOW, WHAT WE THINK CONSTITUTES AN ACCEPTANCE IN THIS CASE. DON'T WE THEN LOSE JURISDICTION BECAUSE IN MARIN V. INFINITI AUTO THE STATUTE WASN'T AT ISSUE, AND IT'S NOT A CASE GOVERNED UNDER THE SAME PROVISION.

AND SO IF YOU'RE RIGHT, THEN WE DON'T EVEN HAVE A CONFLICT TO RESOLVE.

>> WELL, THERE'S TWO DIFFERENT CONFLICT CASES HERE BEFORE THE COURT.

THE FIRST ONE IS CIRRUS DESIGNS --

>> LET'S ASSUME FOR THE SAKE OF ARGUMENT WE DON'T THINK THERE'S A CONFLICT.

FOCUS ON MARIN.

>> SO MARIN I DO BELIEVE THERE IS AN EXPRESSION AND DIRECT CONFLICT EVEN THOUGH IT'S NOT TRAVELING UNDER THE CFS STATUTE. IT REGARDS TO HOW, ESSENTIALLY WHETHER THAT LIENHOLDER SHOULD BE REQUIRED ON THE CHECK AND WHETHER THAT'S AN ESSENTIAL TERM.

AND IF YOU LOOK AT THE OPINIONS IN BOTH CASES, THEY CAME OUT DIFFERENTLY.

THE SECOND DCA SAID, YES, THAT WAS AN ESSENTIAL TERM, THE THIRD DCA SAID IT WASN'T.

>> I KNOW.

BUT MY QUESTION IS TO THE FACT THAT MARIN -- IF THE STATUTE'S NOT ISSUED IN MARIN, CORRECT? IF WE AGREE ON THAT.

>> CORRECT, YES.

>> OKAY.

SO HELP ME OUT WITH THE CATCH 22 WHERE YOU'RE ADMITTING THERE'S A WEIRD CATCH 22.

>> THERE IS A WEIRD CATCH 22, AND IT'S MOSTLY MECHANICS OF THE LIEN IS HOW THE LIEN WAS PLAYING OUT.

AND I THINK THE CATCH 22 IS MORE IN THE SITUATION OF THE DEFENSE WAS IN A BAD SITUATION OF KNOWING WHETHER OR NOT THIS LIEN

WAS GOING TO BE TAKEN CARE OF.  
AND THAT'S WHERE THE MARIN CASE  
COMES INTO PLAY.

NOW, I KNOW YOU SAID DON'T TAKE  
CIRRUS INTO ACCOUNT, BUT IF WE  
DO, THERE IS CONFLICT  
JURISDICTION.

AND ONCE THIS COURT HAS  
JURISDICTION, IT HAS AUTHORITY  
TO ADDRESS ALL ISSUES IN A CASE.  
AND SO AND THAT'S WHEN YOU CAN  
KIND OF FLOW DOWN AND DEAL WITH  
THE REMEDY AND EVERYTHING WITH  
GOING, WITH KIND OF EVERYTHING  
THAT FLOWS FROM THIS.

>> COUNSEL, YOU KEEP TALKING  
ABOUT REMEDY, BUT IT -- NOW, I  
UNDERSTAND IF THERE WAS A  
BREACH, YOU THINK THE REMEDY IS  
TO ENFORCE THE SETTLEMENT  
AGREEMENT AS OPPOSED TO RESCIND  
THE SETTLEMENT AGREEMENT, OKAY?  
THAT'S YOUR POSITION.

BUT YOU DON'T -- ISN'T IT YOUR  
BASIC POSITION THAT THERE WAS  
NOT A BREACH?

>> CORRECT.

WE DO NOT BELIEVE THERE WAS A  
BREACH.

AND THIS IS JUST BASED ON THE  
PLAIN LANGUAGE OF THIS PROPOSAL  
FOR SETTLEMENT.

BECAUSE THE LANGUAGE SAYS SHALL  
PAY \$500,000 TO THE PLAINTIFF,  
AND JUST PLAIN LANGUAGE THAT  
THAT DOES NOT SAY A CHECK SHALL  
BE MADE PAYABLE TO, IT DOESN'T  
DIRECT --

>> BUT DOESN'T YOUR ARGUMENT  
ALSO -- I UNDERSTAND YOU  
ARTICULATED THAT, BUT DOESN'T  
YOUR ARGUMENT REALLY MORE TURN  
ON THE FACT THAT PART OF THE  
BACKDROP FOR THIS WHOLE  
SITUATION IS NOT JUST THE OFFER  
OF JUDGMENT STATUTE, BUT THE  
STATUTE THAT GOVERNS WORKER'S  
COMPENSATION LIENS --

>> CORRECT.

>> -- THE STATUTE THAT PROVIDES  
THAT WHEN THE PLAINTIFF HERE  
BROUGHT THE LAWSUIT, THAT BY  
OPERATION OF LAW THE PLAINTIFF  
WAS BRINGING THE LAWSUIT NOT

ONLY FOR THE PLAINTIFF, BUT FOR THE USE AND BENEFIT OF THE CARRIER.

>> CORRECT, YOUR HONOR.

>> AND ALL OF THAT AND THE LAW THAT SAYS THAT THESE FINES CAN'T BE DISBURSED UNTIL THE ALLOCATION BETWEEN THE CARRIER AND THE PLAINTIFF IS WORKED OUT EITHER BY AGREEMENT OR BY DETERMINATION OF THE COURT. THAT'S ALL PART OF THE BACKDROP THAT INFORMS YOUR ARGUMENT, ISN'T THAT CORRECT?

>> THAT IS CORRECT.

AND IF YOU GO BACK TO CIRCLE K --

>> LET ME ASK YOU -- I'M SORRY, COUNSEL --

>> WOULD YOU LET HER ANSWER MY QUESTION?

>> OH, I'M SORRY.

SHE DID ANSWER YOUR QUESTION.

>> [INAUDIBLE]

>> IF YOU GO BACK TO CIRCLE K, IT EVEN SAYS THAT THE WORK COMP CARRIER HAS TO CONSENT. AND THE SAME WITH CENTURY ELEVATOR TALKING ABOUT HOW THAT LIENHOLDER ACTUALLY HAS TO PARTICIPATE IN THE SETTLEMENT, AND THAT IS ALL UNDER THE GUISE OF THE WORK COMP STATUTE.

>> JUSTICE MUNIZ?

>> SO, BUT IF -- SO ON THAT BACKGROUND LAW ISSUE, IS IT YOUR POSITION THOUGH THAT WHAT IF THE -- I MEAN, PART OF, IT SEEMS LIKE PART OF YOUR ARGUMENT HERE IS THAT YOU'RE KIND OF IGNORING THE NEGATIVE IMPLICATIONS OF, YOU KNOW, PAY THE \$500,000, AND YOU'RE SAYING THAT THAT ON ITS FACE THAT DOESN'T PRECLUDE THE POSSIBILITY OF ADDING OTHER PEOPLE TO THE CHECK.

SO LET'S PUT THAT ASIDE FOR ONE MINUTE.

BUT IF WE HAVE THIS ARGUMENT ABOUT THE SUPPOSED BACKGROUND LAW, WHAT IF THE SETTLEMENT HAD SAID EXPLICITLY WRITE ME AND ONLY ME A CHECK FOR \$500,000. IS IT YOUR POSITION THAT THAT

WOULD BE SORT OF A LEGALLY NOT PERMISSIBLE OFFER?

I MEAN, HELP ME UNDERSTAND WHAT WORK YOU THINK THE BACKGROUND LAW IS DOING.

>> WELL, UNDER THAT SCENARIO I STILL THINK WE WOULD HAVE A SETTLEMENT AGREEMENT, AND THAT'S JUST GOING BACK TO THE PLAIN WORDING OF THE STATUTE.

THE MOMENT THAT THAT NOTICE OF ACCEPTANCE WAS FILED, THERE'S A SETTLEMENT AGREEMENT, AND THAT'S JUST PLAIN LANGUAGE OF THAT STATUTE.

WHERE THAT LANGUAGE COMES IN THAT YOU WOULD, YOU JUST REFERENCED COMES IN TO HOW IT'S ENFORCED.

AND SPECIFICALLY, THAT WOULD HAVE TO GO TO, AGAIN, THE PERFORMANCE OF THE PROPOSAL FOR SETTLEMENT AT THAT POINT.

AND THE FOURTH DCA HAS BEEN KIND OF CLEAR FOR ALMOST 20 YEARS NOW THAT WHEN YOU'RE DEALING WITH A SITUATION UNDER THE PROPOSAL FOR SETTLEMENT STATUTE, YOU DON'T HAVE TO HAVE THE ABILITY TO PAY. IF YOU DON'T HAVE THE ABILITY TO PAY, WHAT HAPPENS IS A JUDGMENT IS ENTERED.

AND SO A JUDGMENT FOR \$500,000 SHOULD HAVE BEEN ENTERED AT THAT POINT.

IT SHOULDN'T HAVE BEEN DEFINED THAT THE ACCEPTANCE THAT WAS FILED WAS NULL AND VOID, AND THAT'S WHAT THE TRIAL COURT DID. AND THAT'S WHERE THE CASE REALLY WENT AWRY AT THAT POINT.

>> BUT DOESN'T CIRRUS, DOESN'T CIRRUS ITSELF THOUGH SAY THAT AS WITH ANY OTHER CONTRACT, ONE OF THE REMEDIES FOR BREACH OF SETTLEMENT AGREEMENT IS RESCISSION?

I MEAN, WHY SHOULD IN THIS CONTEXT IN THE SCENARIO THAT WE GAVE WHERE THERE'S NO DOUBT WHATSOEVER THAT THE OFFER SAID I ONLY WANT MY NAME ON THE CHECK AND THEN THAT'S, QUOTE-UNQUOTE, ACCEPTED AND THEN 10 DAYS LATER

THE CHECK COMES THROUGH, AND IT HAS MULTIPLE NAMES ON THE CHECK. YOU AGREE THAT IN THAT CASE THERE'S A BREACH.

YOU'RE SAYING THAT THE ONLY REMEDY IS YOU'VE GOT TO BASICALLY FORCE THE ENTITY TO WRITE A NEW CHECK WITH ONLY ONE NAME ON IT.

BUT, I MEAN, ISN'T IT JUST BASIC CONTRACT LAW THAT THE PLAINTIFF WOULD HAVE THE OPTION OF EITHER THAT REMEDY OR RESCINDING THE CONTRACT?

I MEAN, THAT'S WHAT CIRRUS SAYS IN FOOTNOTE FOUR.

>> CORRECT, CIRRUS DOES SAY THAT IN FOOTNOTE FOUR.

HOWEVER, THE PARTIES ACTUALLY HAVE TO PLEAD THAT.

IN THIS CASE THE PARTIES NEVER PLED RESCISSION.

SOULDERS NEVER SAID WE HAVE A CONTRACT, LET'S RESCIND IT.

IT WAS WE NEVER HAD A CONTRACT. AND THOSE ARE TWO DIFFERENT THINGS.

TO GET TO ARE RESCISSION, YOU HAVE TO ADMIT THERE'S A CONTRACT, AND THEY NEVER DID THAT HERE.

>> SO IS, WOULD THAT THEN GO TO, WOULD THAT -- WOULD, ESSENTIALLY, AND PART OF THIS WHOLE ISSUE WITH THE JURISDICTION IS, JUST SPEAKING FOR MYSELF, I'M KIND OF WONDERING KIND OF WHAT THE POINT OF ALL OF THIS IS.

BECAUSE IT SEEMS LIKE, YOU KNOW, I COULD SEE US SAYING, LOOK, THERE'S A CONFLICT ON WHETHER THERE WAS REALLY AN ACCEPTANCE OF A CONTRACT.

WE'RE GOING TO RESOLVE THAT AND SAY THERE WAS AN ACCEPTANCE, BUT THERE'S NO CONTRACT ON THE SORT OF BREACH AND, IF SO, HOW YOU REMEDY ISSUE.

IF WE WERE TO SEND IT BACK AND SAY, OKAY, ASSUME THERE WAS A CONTRACT, NOW YOU PROCEED UNDER THAT ASSUMPTION AND THEN THE PLAINTIFF SAYS WE WANT TO

RESCIND, THEN WE'RE RIGHT BACK  
IN THE SAME PLACE.

I MEAN, I DON'T KNOW THAT  
THERE'S ANY AUTHORITY FOR US TO  
SAY THAT RESCISSION IS AT THAT  
POINT WOULD NOT BE AN AVAILABLE  
OPTION, THAT IT'S JUST OFF THE  
TABLE.

SO COULD YOU GIVE ME AUTHORITY  
THAT TAKES THAT OFF THE TABLE ON  
REMAND?

>> WELL, ON REMAND -- AND,  
AGAIN, RESCISSION HAS NEVER BEEN  
ALLEGED AND NEVER BEEN -- BY  
SOUDERS.

THE FACT THAT IT'S BEING BROUGHT  
UP NOW AT THE FLORIDA SUPREME  
COURT, IT SEEMS, HONESTLY, IT'S  
COMING OUT OF LEFT FIELD.  
BECAUSE THAT, AGAIN, THE REMAND  
WOULD HAVE TO BE WHAT WAS BEFORE  
THIS COURT.

AND IF YOU LOOK AT CIRRUS AND IF  
YOU LOOK AT SUAREZ TRUCKING, AND  
IN CIRRUS THEY ENFORCED THAT  
SETTLEMENT.

AND SO WHERE, WHEN YOU'RE  
DEALING WITH A CONFLICT, LET'S  
TAKE EN BANC PROCEDURES OUT OF  
THIS.

WHEN YOU'RE DEALING WITH A  
CONFLICT, YOU HAVE OTHER ISSUES  
THAT WOULD BE OVERRULED BY THE  
SAME COURT, THAT'S A CONFLICT.

AND IF YOU READ SUAREZ TRUCKING,  
IF YOU READ CIRRUS DESIGN,  
THAT'S WHAT WE HAVE HERE.

AND SO IF YOU ACCEPT AND APPROVE  
CIRRUS DESIGN, THE REMEDY IS  
ENFORCING THIS CONTRACT.

IT IS NOT ALLOWING THEM A SECOND  
BITE AT THE APPLE TO TRY TO  
RESCIND THIS CONTRACT.

IT IS, INSTEAD, ENFORCING IT.

>> COUNSEL, LET ME ASK YOU ABOUT  
FOOTNOTE FOUR.

WE'VE -- IT'S BEEN MENTIONED.

IT SAYS ALTHOUGH CIRRUS DOES NOT  
MAKE THE ARGUMENT, THE LOGICAL  
EXTENSION OF CIRRUS' POSITION IS

THAT RESCISSION OF THE  
SETTLEMENT CONTRACT IS A  
POSSIBLE REMEDY THAT PLAINTIFFS  
MAY PURSUE.

WHATEVER THAT IS, ISN'T IT  
DICTA?  
>> 100%.  
IT IS DICTA, AND, AGAIN, IT'S  
THE SAME SITUATION WE HAVE HERE.  
SOUDERS NEVER PURSUED  
RESCISSION.

AND I THINK A LOT OF IT HAS TO  
DO WITH THEY NEVER ADMITTED  
THERE WAS A CONTRACT IN THE  
FIRST INSTANCE.  
FROM DAY ONE THEY TOOK THE  
POSITION THERE WAS NO CONTRACT.  
AND SO I THINK THAT'S REALLY,  
OUR CASE IS IN DIRECT, EXPRESS  
AND DIRECT CONFLICT WITH CIRRUS  
DESIGN.

>> COUNSEL, ARE YOU DISPUTING  
THOUGH THE PREMISE THAT THE  
PLAINTIFF -- I MEAN, ARE YOU  
HINGING IT ON THIS SORT OF  
WAIVER THING WHERE THE, YOU  
KNOW, OBVIOUSLY THEY'RE NOT  
GOING TO ARGUE RESCISSION IF  
THEY'RE SAYING THERE'S NO  
CONTRACT TO BEGIN WITH.  
BUT JUST TO GET BACK TO WHAT THE  
CHIEF IS ASKING YOU, DICTA OR  
NOT, ARE YOU DISPUTING THE LEGAL  
PREMISE THAT THE PLAINTIFF TAKE  
WAIVER OFF THE A TABLE FOR A  
SECOND, IN A CASE LET'S SAY  
COULD THEY HAVE ARGUED AT THE  
BEGINNING TRIAL COURT, OKAY, WE  
THINK THERE'S NO CONTRACT, AND  
EVEN IF THERE IS, YOU KNOW,  
THERE WAS A BREACH, AND WE  
CHOOSE AS A REMEDY RESCISSION.  
ARE YOU TELLING ME THAT LEGALLY  
WOULD NOT HAVE BEEN A  
PERMISSIBLE REQUEST, YOU KNOW, A  
VALID OPTION FOR THE PLAINTIFF?

>> THE PLAINTIFF COULD HAVE PLED  
THAT, AND IT COULD HAVE PLED  
THAT IN THE ALTERNATIVE.  
YOU COULD HAVE ADMITTED THE  
EXISTENCE OF A CONTRACT AND NOT  
THE EXISTENCE.  
YOU'RE ALLOWED TO MAKE  
ALTERNATIVE ARGUMENTS, BUT THAT  
NEVER HAPPENED HERE.  
AND SO THAT -- AND, AGAIN, THIS  
IS WHY WE ARE DIRECTLY IN  
CONFLICT WITH CIRRUS.

IT WAS NEVER ALLEGED IN THIS CASE.

IT WASN'T ALLEGED IN CIRRUS. RESCISSION IS AN OPTION WHEN YOU'RE DEALING WITH CONTRACT CASES, BUT IT HAS TO BE ALLEGED. AND FOR NOW --

>> COUNSEL, ISN'T IT ALSO TRUE, COUNSEL, THAT RESCISSION IS NOT ALWAYS AN OPTION FOR EVERY BREACH?

IT DEPENDS ON THE TYPE OF CONTRACT, AND IF IT'S SUBSTITUTED AND THERE CERTAINLY -- ISN'T THERE AUTHORITY THAT IN A SUBSTITUTED CONTRACT, THAT THERE ARE AT LEAST SOME CIRCUMSTANCES WHERE RESCISSION IS NOT AVAILABLE FOR EVERY BREACH?

>> I BELIEVE SO, YOUR HONOR.

>> ALL RIGHT, COUNSEL.

I HAVE HELPED YOU USE PART OF YOUR REBUTTAL TIME.

I'LL -- YOU CAN KEEP GOING, BUT YOU'RE USING IT.

>> OH, I'LL RESERVE THE REST OF MY TIME.

THANK YOU, YOUR HONOR.

>> THANK YOU.

COUNSEL.

>> GOOD MORNING.

MAY IT PLEASE THE COURT, MY NAME IS JOEL EATON, AND I REPRESENT THE RESPONDENT WHO IS THE PLAINTIFF BELOW, ADAM SOUDERS.

I WOULD LIKE TO BEGIN BY ESTABLISHING THREE UNDEBATABLE PROPOSITIONS OF THE LAW OF CONTRACTS HERE.

IT'LL BE VERY BRIEF.

ASSUME THIS OFFER WAS MADE PRIOR TO FILING SUIT.

IT PLAINLY WOULD HAVE BEEN AN OFFER TO ENTER INTO A UNILATERAL CONTRACT.

A UNILATERAL CONTRACT CAN ONLY BE ACCEPTED BY PERFORMANCE, AND THE PERFORMANCE --

>> COUNSEL, YOU KNOW, I UNDERSTAND YOUR, YOU WANT TO GIVE, REPEAT YOUR TUTORIAL ON THE LAW OF CONTRACT FOR US HERE. WE APPRECIATE HAVING THE BENEFIT

OF THAT.

WE'RE MUCH OBLIGED FOR IT IN THE BRIEF, BUT LET ME ASK YOU THIS: WHEN I LOOK AT WHAT ACTUALLY HAPPENED HERE NOT SOME HYPOTHETICAL, IT SEEMS THAT THE ACTUAL OFFER THAT WAS MADE INVITED A PROMISSORY ACCEPTANCE. WHY AM I WRONG ABOUT THAT?

>> I'M RELUCTANT, MR. CHIEF JUSTICE, TO SAY YOU'RE WRONG ABOUT ANYTHING.

BUT THERE IS AN ANSWER TO YOUR QUESTION.

THE OFFER THAT WAS MADE WAS NOT SIMPLY FOR AN ACCEPTANCE WITH A NOTICE OF ACCEPTANCE.

THE OFFER VERY CLEARLY READ UPON ACCEPTANCE AND PAYMENT OF THE PROPOSAL FOR SETTLEMENT, WE'LL DISMISS THE LAWSUIT.

>> WELL, I UNDERSTAND THAT, YOU KNOW, THE PARTIES ALWAYS CONTEMPLATE THAT THERE'S GOING TO BE PERFORMANCE --

[LAUGHTER]

WHEN THEY GET PROMISED, WHEN THEY GET A PROMISE TO PERFORM, THEY CONTEMPLATE THAT, ULTIMATELY, THERE WILL BE PERFORMANCE.

BUT THAT DOESN'T MEAN THAT EVERY CONTRACT IS A UNILATERAL CONTRACT.

>> WELL, MY POINT WAS, AND I'LL MAKE IT SIMPLER, UNDER THE LAW OF CONTRACTS THERE WAS CLEARLY NO PERFORMANCE THAT WAS A MIRROR IMAGE AND, THEREFORE, UNDER THE LAW OF CONTRACTS THERE WAS CLEARLY NO SETTLEMENT AGREEMENT. SETTLEMENT AGREEMENTS ARE GOVERNED BY THE LAW OF CONTRACTS.

THAT'S THE CITY OF MIAMI --

>> YEAH.

BUT, MR. EATON, THIS IS A GREAT, YOU KNOW, DISCUSSION VACUUM, BUT HERE YOU DO HAVE THE STATUTE, RIGHT?

I MEAN, YOU DON'T DISPUTE THAT WE'RE OPERATING UNDER THE OFFER OF JUDGMENT STATUTE, AND THAT STATUTE ALTERS A LITTLE BIT

THESE PRINCIPLES THAT WE'RE  
DISCUSSING IN THE VACUUM.  
HOW DO YOU RESPOND TO  
MS. GOODEN'S ARGUMENT THAT UNDER  
THE STATUTE THERE REALLY ISN'T  
ANYTHING ON THE FACE OF THE  
STATUTE TO REQUIRE THE SUAREZ  
TRUCKING GROUPED TO DO ANYTHING  
MORE TO ACCEPT THE OFFER?  
WHAT'S YOUR ANSWER TO THAT?

>> I DON'T DISPUTE THAT ONCE  
SUIT WAS FILED AND THEN THE  
OFFER TO SETTLE WAS MADE THE  
STATUTE COMES INTO PLAY.  
BUT I THINK THE STATUTE IS  
AMBIGUOUS AND THAT THE  
LEGISLATURE SIMPLY FAILED TO  
CONSIDER THE DIFFERENCE BETWEEN  
A UNILATERAL CONTRACT AND A  
BILATERAL CONTRACT --

>> BUT WHAT'S THE, WHAT'S THE  
AMBIGUITY IN THE STATUTE?

>> I THINK IT'S EASY TO READ THE  
STATUTE TO SAY HERE'S MY NOTICE  
OF ACCEPTANCE.

I AM ACCEPTING THE UNILATERAL  
CONTRACT AS THE LAW, COMMON LAW  
OF CONTRACTS REQUIRES.

NOW --

>> COUNSEL, I JUST DON'T, I  
DON'T UNDERSTAND HOW YOU JUST  
GET THIS IDEA THAT SOMEHOW THE  
COMMON LAW OF CONTRACTS REQUIRES  
A UNILATERAL CONTRACT.

I MEAN, THAT DEPENDS TO A LARGE  
EXTENT ON THE WAY THE OFFER IS  
FRAMED, WHAT THE OFFER IS.

NOW, HERE THE WAY THE OFFER IS  
FRAMED IS DICTATED BY THIS  
STATUTE.

BUT THAT'S -- OKAY, THAT'S, YOU  
CHOSE, YOUR CLIENT CHOSE TO  
OPERATE UNDER THAT STATUTE.  
AGAIN, THERE'S NOTHING THAT  
REQUIRES HIM TO OPERATE UNDER  
THE STATUTE.

THEY DON'T GET THE BENEFIT OF  
THE STATUTE IF THEY DO THAT, BUT  
THEY WANT THE BENEFIT OF THE  
STATUTE, IT SEEMS LIKE THEY'VE  
GOT TO ACCEPT THE FRAMEWORK  
ESTABLISHED BY THE STATUTE.

WHAT AM I MISSING?

>> WELL, THERE'S NO QUESTION

IT'S A STATUTE THE WAY  
MS. GOODEN WANTS YOU TO READ IT  
OVERTURNS AND TURNS UPSIDE DOWN  
NEARLY 100 YEARS OF CONTRACT LAW  
IN THIS STATE.

THAT'S A PRETTY DRASTIC WAY TO  
READ THE LEGISLATIVE INTENT.  
AND IT'S FOR THAT REASON THAT  
I'VE RELIED ON THIS COURT'S  
DECISIONS IN CARLISLE AND  
KITCHEN THAT SAY WHEN WE LOOK AT  
A STATUTE, BEFORE WE'RE GOING TO  
SAY IT OVERTURNS THE COMMON LAW  
IT HAS TO BE CLEAR, UNAMBIGUOUS  
AND WHAT'S THE --

>> BUT, COUNSEL, I JUST, I DON'T  
FOLLOW HOW THIS IS OVERTURNING  
THE COMMON LAW.

NOW, WE DO KNOW THAT IN TERMS OF  
THE ATTORNEY'S FEE ASPECT OF IT,  
IT DOES -- THAT IS AGAINST THE  
COMMON LAW.

THAT'S A CHANGE IN THE COMMON  
LAW.

BUT YOU'RE NOT ARGUING AGAINST  
THAT.

IT JUST SEEMS TO ME THAT THE  
COMMON LAW ALWAYS HAS HAD --  
WELL, THE COMMON LAW FOR A WHILE  
NOW HAS HAD BILATERAL CONTRACTS.  
AND I DON'T UNDERSTAND HOW THE  
LEGISLATURE CHANNELING THIS INTO  
THE FORM OF BILATERAL CONTRACT  
OVERTURNS THE COMMON LAW.

THAT'S A CATEGORY THAT'S IN THE  
COMMON LAW.

>> WELL, TO BE FRANK WITH YOU, I  
DON'T THINK THE LEGISLATURE  
UNDERSTOOD WHAT IT WAS DOING --  
[LAUGHTER]

>> WE KNOW WHAT THEY SAID.  
WE CAN'T DELVE INTO THEIR  
UNDERSTANDING.

WE'VE JUST GOT TO LOOK AT WHAT  
THEY SAID.

>> I UNDERSTAND WHAT THEY SAID,  
BUT I THINK THAT WHAT THEY SAID  
CAN REASONABLY BE READ TO MEAN I  
AM ACCEPTING THIS CONTRACT BY  
PERFORMING IT AS THE LAW OF  
CONTRACTS REQUIRED.

I AM ACCEPTING.

HERE'S THE NOTICE, HERE'S THE  
CHECK MADE PAYABLE TO THE

PLAINTIFF.

IT'S DONE.

EVERYBODY'S HAPPY.

SO --

>> WE'VE GOT TO STOP HERE.

I'VE GOT ANOTHER QUESTION THAT CHANGES A LITTLE BIT, AND THEN I'LL STOP.

IT FOCUSES ON A LITTLE DIFFERENT ASPECT OF THIS.

LET ME ASK YOU THIS, COUNSEL.

FORGET ABOUT HOW ALL THIS HAPPENED.

THIS IS A HYPOTHETICAL.

SAY THAT THIS CHECK WAS MADE OUT TO THE PLAINTIFF AND WAS SENT TO THE PLAINTIFF'S LAWYER.

WHAT WOULD HAVE HAPPENED TO THAT CHECK?

HOW WOULD THE PLAINTIFF'S LAWYER HAVE HANDLED THAT CHECK?

COULD HE GIVE IT, COULD THE PLAINTIFF'S LAWYER GIVE IT TO THE PLAINTIFF AND SAY, HERE, GOT YOUR \$500,000.

NOW, YOU KNOW, THERE'S A LIEN, AND THEY MIGHT COME AFTER YOU FOR THAT, BUT HERE, TAKE IT.

YOU CASH IT AND WE'LL WORRY ABOUT THE LIEN LATER.

COULD THEY HAVE DONE THAT?

>> I DON'T THINK THE FACT THAT THERE WAS A LIEN IN AN UNDETERMINABLE AMOUNT HAS A THING TO DO WITH THE CONTRACT FORMATION QUESTION.

>> WELL, I UNDERSTAND WHAT YOU -- I APPRECIATE THAT.

AND, AGAIN, I'M MUCH OBLIGED TO YOU FOR GIVING US YOUR VIEWS ON THAT, BUT I'D APPRECIATE IF YOU'D ANSWER MY QUESTION.

I'D BE MORE OBLIGED IF YOU'D ANSWER MY QUESTION.

[LAUGHTER]

>> THE CHECK WOULD BE PUT INTO THE ATTORNEY'S TRUST ACCOUNT BECAUSE THERE'S A LIEN ON IT, AND THAT'S TO BE NEGOTIATED WITH THE WORKER'S COMP CARRIER --

>> WELL, OKAY.

IF THAT'S THE CASE, COUNSEL, I DON'T UNDERSTAND HOW YOUR, THE RIGHTS OF YOUR CLIENT ARE, WERE

IN ANY RESPECT MATERIALLY  
AFFECTED BY THE WAY THIS CHECK  
WAS MADE OUT WHEN IT WAS SENT  
THE FIRST TIME.

>> THE ANSWER TO THAT QUESTION  
IS WHEN YOU PUT THE WORKER'S  
COMP CARRIER ON A \$500,000 CHECK  
WHEN YOU MAY BE ABLE TO  
NEGOTIATE A \$200,000 PAYMENT ON  
TO CLEAR THE LIEN, YOU HAVE  
GIVEN THE WORKER'S COMP CARRIER  
ENORMOUS LEVERAGE IN THE  
NEGOTIATION PROCESS.

>> WELL, BUT --

>> IT COULD SIMPLY REFUSE TO  
ENDORSE THE CHECK.

>> I DON'T --

>> [INAUDIBLE]

>> I DON'T UNDERSTAND THAT,  
BECAUSE THEY'VE GOT THE LEVERAGE  
ANYWAY UNDER THE SCENARIO YOU  
OUTLINED.

THEY'VE GOT TO AGREE OR IT GOES  
BEFORE A COURT BEFORE THE MONEY  
GETS DISBURSED.

ISN'T THAT CORRECT?

>> YES.

>> OKAY.

THEY'VE GOT THAT LEVERAGE.

I DON'T UNDERSTAND HOW WHAT'S ON  
THE CHECK IS ANYTHING MORE THAN  
AN IMMATERIAL CIRCUMSTANCE.

>> BECAUSE UNDER THE LAW OF  
CONTRACTS IT WAS NOT A MIRROR  
IMAGE ACCEPTANCE OF THE  
PROPOSAL.

THAT'S THE ANSWER.

I CONTINUE TO THINK THAT THE  
EXISTENCE OF THAT LIEN IS  
IRRELEVANT TO THE QUESTION OF  
WHETHER A CONTRACT WAS FORMED  
UNDER THE LAW OF CONTRACTS.  
AND I DON'T KNOW HOW ELSE TO  
ANSWER YOUR QUESTION.

LET, LET ME --

>> COUNSEL, CAN I -- IF YOU, ARE  
YOU FINISHED ANSWERING THE  
CHIEF'S QUESTION?

BECAUSE I JUST WANTED TO ASK YOU  
SOMETHING.

>> COULD YOU SPEAK --

>> ARE YOU FINISHED ANSWERING  
THE CHIEF'S QUESTION?

>> YES.

>> OKAY.

SO LET'S ASSUME THAT THERE WAS A CONTRACT.

COULD YOU ADDRESS THE BREACH QUESTION?

LET'S ASSUME THERE WAS A CONTRACT.

I'M ASSUMING YOUR POSITION WOULD BE THAT EVEN IF THERE WAS A CONTRACT, IT WAS BREACHED.

>> THE POSITION OF THE PARTIES IN THEIR ARGUMENTS BELOW WAS THE PLAINTIFF SAID NO CONTRACT, THE DEFENDANT SAID, OH, WE'VE GOT A CONTRACT.

THAT'S ALL THAT HAPPENED BELOW, AND THE TRIAL COURT RULED THAT THERE WAS NO CONTRACT.

WHEN WE CAME UP THROUGH THE SECOND DISTRICT, THAT WAS AN ARGUMENT.

BUT THE TRUCKING COMPANY ALSO ARGUED THAT, OKAY, THERE'S A CONTRACT, BUT MAYBE WE BREACHED IT WHEN WE DIDN'T COMPLY WITH THE TERMS OF THE PROPOSAL.

AND, THEREFORE, THE REMEDY IS TO ENTER JUDGMENT ON THIS CONTRACT THAT WE BREACHED IN THE AMOUNT OF \$500,000.

IN OTHER WORDS, ALTHOUGH WE BREACHED THE CONTRACT, GIVE US THE BENEFIT OF THE CONTRACT WHICH DOESN'T MAKE ANY LOGICAL SENSE TO ME.

AND OUR RESPONSE, WHICH WAS A REPLY TO THEIR ARGUMENT, WITH WAS, NO, NO, NO, NO.

IF YOU BREACH THE CONTRACT, IF THERE WAS A CONTRACT AS YOU SAY AND IF YOU BREACHED THAT CONTRACT BY FAILING TO PERFORM WITH A MIRROR IMAGE OF THE PROPOSAL, THEN WE ARE RELIEVED OF OUR OBLIGATION TO DISMISS THE LAWSUIT.

THAT'S ALL WE PROMISED THIS IN THIS SO-CALLED BILATERAL CONTRACT.

WE PROMISED THAT IF YOU ACCEPTED AND SENT US A CHECK IN AN AMOUNT OF \$500,000 WITH PAYMENT TO THE PLAINTIFF, THEN WE WILL DISMISS THE LAWSUIT.

THE LAW IS PERFECTLY CLEAR AND HAS BEEN SETTLED FOR A LONG TIME, AND I QUOTED THIS COURT'S DECISION IN THE HOSPITAL MORTGAGE GROUP CASE, 1982, WHICH SAYS WHERE A PARTY BREACHES A CONTRACT, THE OTHER PARTY IS RELIEVED OF HIS OBLIGATION TO PERFORM HIS PART OF THE CONTRACT.

THAT'S BLACK LETTER LAW. SO ONCE WE DIDN'T GET THE CHECK THAT WE HAD PROPOSED TO GET, IF THERE WAS A CONTRACT, A BILATERAL CONTRACT RATHER THAN A UNILATERAL CONTRACT, THEY BREACHED IT.

OUR ONLY OBLIGATION ON THE OTHER SIDE OF THAT BILATERAL CONTRACT WAS TO DISMISS THE LAWSUIT. WE'RE RELIEVED OF THAT OBLIGATION BY THE DEFENDANT'S BREACH.

>> SO I DON'T WANT TO PUT WORDS IN YOUR MOUTH, BUT, I MEAN, DOES THAT MAKE THIS KIND OF -- IF YOU'RE RIGHT ABOUT THAT, THEN THIS WHOLE THING IS KIND OF, THIS WHOLE QUESTION ABOUT WHETHER THERE WAS ACCEPTANCE OR NOT IS -- AND UNDER JUSTICE, CHIEF JUSTICE CANADY'S READING OF WHAT THE OFFER WAS, THAT KIND OF TAKES THE 768 COMPLETELY OUT OF THE EQUATION BECAUSE, YOU KNOW, ONE WAY TO READ THIS IS THAT YOU OFFERED A, YOU MADE AN OFFER THAT INVITED A PROMISE IN RESPONSE, AND YOU DON'T EVEN HAVE TO WORRY ABOUT THE STATUTE. BUT YOU'RE STILL LEFT WITH THE BREACH QUESTION.

AND IF YOU'RE RIGHT ABOUT BOTH THE BREACH AND THE REMEDY ISSUE, THEN WE'RE JUST SERVING IT BACK JUST SO THAT THE COURT CAN REFUSE TO ENFORCE THE CONTRACT FOR A DIFFERENT REASON THAN THE ONE THAT IT GAVE.

>> WELL, I HAVE ALWAYS THOUGHT THAT MS. GOODEN'S ARGUMENT, WITH ALL DUE RESPECT TO HER AND I DO RESPECT HER, SHE'S A VERY GOOD LAWYER, WAS SORT OF A RUBE

GOLDBERG CONTRACTION WHICH SAID,  
OKAY, WE'VE GOT A BILATERAL  
AGREEMENT IN WHICH WE PROMISE TO  
FULFILL YOUR TERMS WHICH IS SEND  
ME A CHECK FOR \$500,000, AND  
YOUR ONLY OBLIGATION IS TO  
DISMISS THE LAWSUIT.  
BUT THEY'RE SAYING I GOT TO  
DISMISS THE LAWSUIT EVEN THOUGH  
THEY DIDN'T COMPLY WITH OUR  
PROPOSAL, AND WE'VE GOT TO PAY  
'EM \$500,000 JUDGMENT.  
THEY WANT THE BENEFIT OF A  
CONTRACT THAT THEY BREACHED.  
AND I THINK THAT'S THE SIMPLE  
ANSWER TO THIS ENTIRE PROBLEM  
BEFORE THE COURT, HOW TO  
INTERPRET 768.79.  
CERTAINLY, THE STATUTE, THE RULE  
COULD USE A LITTLE TWEAKING TO  
SUPPORT MY CONSTRUCTION OF THE  
STATUTE, BUT I DON'T THINK IT'S  
ILLOGICAL TO SAY, OKAY, I'LL  
TAKE MS. GOODEN'S ARGUMENT THAT  
THERE WAS AN ARGUMENT BECAUSE WE  
FILED A MERE NOTICE OF  
ACCEPTANCE.  
BUT YOU BREACHED THE CONTRACT.  
YOU DIDN'T COMPLY WITH THE TERMS  
OF WHAT YOU PROMISED TO DO UNDER  
THIS BILATERAL CONTRACT.  
AND FOR THAT REASON, THE  
PLAINTIFF IS RELIEVE OF HIS  
OBLIGATION TO DISMISS THE  
LAWSUIT.  
CASE OVER.  
I DON'T -- I HAVE NEVER THOUGHT  
THAT THE COURT NEEDED TO GET  
INTO THE THICKET OF TRYING TO  
FIGURE OUT WHAT THE LEGISLATURE  
INTENDED WHEN IT WROTE THIS  
STATUTE.  
NOW, THE STATUTE WORKS PERFECTLY  
WELL UNDER MY VERSION OF IT IN A  
CASE WHERE A DEFENDANT MAKES A  
PROPOSAL FOR SETTLEMENT BECAUSE  
THAT'S, THAT REQUIRES AN  
EXCHANGE OF PROMISES.  
BUT UNDER INVITATION TO FORMAL  
UNILATERAL CONTRACT WHERE  
PERFORMANCE IS REQUIRED, THE  
STATUTE PURPORTS TO OVERTURN 100  
YEARS OF CONTRACT LAW IN THIS  
STATE.

AND I DON'T BELIEVE THIS COURT IS READY TO DO THAT.

THE SIMPLEST WAY TO DISPOSE OF THIS CASE IS TO SAY, OKAY, WE ACCEPT ARGUMENTATIVELY THAT THERE WAS A CONTRACT, BUT IF THERE WAS A CONTRACT, IT WAS BREACHED AND THE PLAINTIFF DIDN'T HAVE TO DISMISS THE LAWSUIT.

NO MORE QUESTIONS.

I'VE BEEN ARGUING CASES IN THIS COURT FOR 45 YEARS.

THIS WILL BE MY LAST APPEARANCE BEFORE COURT.

I'M HANGING UP MY TILE AND PASSING THE TORCH TO MY YOUNGER COMPATRIOTS.

IT HAS BEEN AN HONOR AND A PRIVILEGE TO PRACTICE BEFORE THIS COURT, AND I'VE ENJOYED EVERY MINUTE OF IT.

THANK YOU VERY MUCH.

>> WELL, THANK YOU, MR. EATON.

WE WISH YOU WELL IN RETIREMENT AND APPRECIATE YOUR SERVICE TO THE BAR AND YOUR SERVICE TO YOUR CLIENTS.

WE'LL NOW GO TO REBUTTAL FROM OPPOSING COUNSEL.

>> THANK YOU, SIR.

>> NOT ON THAT POINT, BUT ON THE CASE.

[LAUGHTER]

>> SO WITH REGARDS TO THE ARGUMENT THAT THIS ARGUMENT ABOUT BREACH SOMEHOW SPRUNG UP DURING THE APPEAL IN THE SECOND DCA, THAT IS NOT THE CASE.

IF YOU LOOK AT THE TRANSCRIPT WHICH IS FOUND IN THE RECORD ON 812-867, THE TRIAL ATTORNEY SPECIFICALLY MADE THIS ARGUMENT THAT ANY BREACH DID NOT GO TO FORMATION, IT JUST WENT TO -- SORRY.

THE CHECK DID NOT GO TO FORMATION, IT JUST WENT TO BREACH.

AND IF YOU TAKE MR. EATON'S ARGUMENT, YOU HAVE TO IGNORE SEVERAL CASES SPECIFICALLY ON THE BFS STATUTES.

SPECIFICALLY, ANDRE V. MEYERS

AND ABBOTT AND PURDY.  
IN BOTH OF THOSE CASES IT SAYS  
THAT THE REMEDY, AGAIN, IS BY  
ENTERING JUDGMENT.  
THAT IS HOW YOU ENFORCE A  
PROPOSAL FOR SETTLEMENT IN THIS  
CONTEXT.

THERE IS NO REQUIREMENT UNDER  
THE STATUTE THAT A PARTY HAS TO  
HAVE THE ABILITY TO PAY A  
PROPOSAL FOR SETTLEMENT THAT IT  
ACCEPTS.

AND SO --

>> COUNSEL, DID THE DEFENSE  
TENDER A CHECK THAT WAS PAYABLE  
ONLY TO THE PLAINTIFF?  
AFTER THE OTHER ONE WAS  
REJECTED?

>> NO.

THEY OFFERED TO HAVE IT  
REISSUED, AND THE PLAINTIFF'S  
ATTORNEY AT THAT POINT SAID, NO  
WAY.

IT'S TOO LATE.

>> WAS THAT STILL WITHIN TEN  
DAYS OF THE ACCEPTANCE?

>> I'M ACTUALLY NOT SURE.

IT WAS ALL A REALLY TIGHT TIME  
FRAME.

I'M JUST NOT SURE IF IT WAS  
WITHIN THE TEN DAYS OR NOT.

>> THANK YOU.

>> THE PFS STATUTE DOES NOT WORK  
UNDER MR. EATON'S FRAMEWORK, AND  
HERE'S WHY.

BECAUSE THE ENTIRE PURPOSE OF  
PROPOSALS FOR SETTLEMENT IS TO  
REDUCE LITIGATION IN SETTLED  
CASES.

IF YOU ACCEPT SOUDERS'  
INTERPRETATION OF THIS STATUTE,  
YOU'RE ACTUALLY GOING TO BE  
DOING THE OPPOSITE.  
PARTIES ARE GOING TO BE  
LITIGATING WHETHER OR NOT THERE  
WAS AN ACCEPTANCE JUST LIKE THEY  
DID IN THIS CASE.

THERE'S GOING TO BE MORE  
LITIGATION AND JUDICIAL LABOR IS  
NOT GOING TO END.

AND FOR THAT REASON ALONE, WE  
ASK THIS COURT TO REVERSE AND  
REMAND FOR ENTRY OF FINAL  
JUDGMENT OF \$500,000 IN --

AGAINST MY CLIENT AND ALSO TO  
APPROVE THE CONFLICT CASES.  
AND THANK YOU, EVERYONE, FOR  
YOUR TIME.

>> ALL RIGHT.

WELL, WE THANK YOU BOTH FOR YOUR  
ARGUMENTS IN THIS CASE TODAY  
AND, AGAIN, MR. EATON, WE WISH  
YOU THE VERY BEST IN RETIREMENT.  
THAT CONCLUDES THIS SESSION  
OF THE FLORIDA SUPREME COURT.