

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT, IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

CLASS REPRESENTATION

IN RE: CITRUS CANKER LITIGATION

CASE NO. 03-8255 CA 13

**ORDER ON PLAINTIFFS' AMENDED MOTION
FOR PARTIAL SUMMARY JUDGMENT ON LIABILITY**

THIS CAUSE came before this Court on August 11, 2006 upon the Amended Motion for Partial Summary Judgment on Liability ("Motion"). Pursuant to an order dated August 9, 2006, the Court entertained the Motion on behalf of the named Plaintiffs only pending disposition of the certiorari proceeding pending before the Third District Court of Appeal (Case No. 3D06-1099). Having reviewed the Motion and the opposing memorandum served by the Florida Department of Agriculture and Consumer Services and its Commissioner (collectively, the "Department"), heard argument of counsel and being otherwise fully advised in the premises, this Court ORDERS and ADJUDGES the Motion is GRANTED IN PART and DENIED IN PART as to the named Plaintiffs only as follows:

1. The Motion is GRANTED as to liability pursuant to Count III, the statutory claim brought under § 581.1845, Florida Statutes. Plaintiffs' claims under Count III shall proceed solely on the issue of damages.

2. The Motion is DENIED as to liability with respect to Count I, the common law claim for inverse condemnation, based on the Department's fourth affirmative defense of public nuisance.

3. The Motion is GRANTED as to the Department's third affirmative defense of superseding cause. The superseding cause defense does not apply to any count of the Second Amended Class Action Complaint as a matter of law based on the facts of this case.

DONE AND ORDERED in Chambers at Miami-Dade County, Florida, this _____ day of August, 2006.

Conformed Copy

AUG 22 2006

Pedro P. Echarte, Jr.
Circuit Court Judge _____
Pedro Echarte, Jr.
Circuit Court Judge

Copies provided to:

Robert C. Gilbert, Esq.
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Wesley R. Parsons, Esq.
Jerold I. Budney, Esq.

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