

Supreme Court of Florida

ORIGINAL

No. 75,391

PATRICIA A. SHARON, Petitioner,

vs.

STATE FARM FIRE & CASUALTY COMPANY, Respondent.

[October 3, 1991]

PER CURIAM.

We have for review Sharon v. State Farm Fire & Casualty Co., 561 So.2d 302 (Fla. 2nd DCA 1990), in which the Second District Court of Appeal affirmed the entry of summary judgment on the authority of Brixius v. Allstate Insurance Co., 549 So.2d 1191 (Fla. 2d DCA 1989), and certified its decision as in conflict with Jernigan v. Progressive American Insurance Co., 501 So.2d 748 (Fla. 5th DCA), review denied, 513 So.2d 1062 (Fla. 1987). We have jurisdiction. Art. V, § 3(b)(4), Fla. Const.

We recently approved the district court's decision in Brixius and disapproved the decision in Jernigan. Brixius v. Allstate Insurance Co., No. 75,026 (Fla. Oct. 3, 1991). Accordingly, the district court's decision in this case is approved.

It is so ordered.

SHAW, C.J. and OVERTON, GRIMES and HARDING, JJ., concur.
KOGAN, J., dissents with an opinion, in which BARKETT, J., concurs.
McDONALD, J., dissents.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED.

KOGAN, J., dissenting.

I dissent for the reasons I expressed in Brixius v. Allstate Insurance Co., No. 75,026 (Fla. Oct. 3, 1991) (Kogan, J., dissenting).

BARRETT, J., concurs.

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

Second District - Case No. 89-01711

(Hillsborough County)

Stevan T. Northcutt of Levine, Hirsch, Segall & Northcutt, P.A.,
Tampa, Florida,

for Petitioner

Robert L. Donald, Bruce D. Austin and Dee Ann Setchell of Haas,
Boehm, Brown, Rigdon & Seacrest, P.A., Fort Myers, Florida,

for Respondent