

IN THE DISTRICT COURT OF APPEAL OF FLORIDA
FIRST DISTRICT

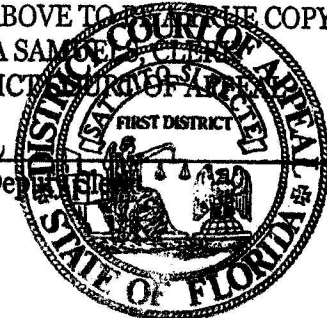
CASE NO.: 1D17-2151
L.T.C. CASE NO. 14000360CAC

I CERTIFY THE ABOVE TO BE A TRUE COPY

KRISTINA SAMUELS, CLERK
FIRST DISTRICT

By: 

Deputy Clerk



DYCK-O'NEAL, INC.,

Appellant/Petitioner,

v.

ALICE CISLO,

Appellee/Respondent.
_____ /

AMENDED¹ NOTICE TO
INVOKE DISCRETIONARY
JURISDICTION

NOTICE IS GIVEN that Appellant/Petitioner Dyck-O'Neal, Inc., invokes the discretionary jurisdiction of the Florida Supreme Court to review the decision of this Court rendered June 13, 2018 in this cause. Jurisdiction is based upon this Court's certification of conflict in *Dyck-O'Neal, Inc. v. Lanham*, 214 So. 3d 802 (Fla. 1st DCA 2017) (per curiam) pursuant to Fla. R. App. P. 9.030(a)(2)(A)(vi). In addition, the decision herein expressly and directly conflicts with decisions of every other Florida district court of appeal on the same question of law and thus qualifies for Supreme Court discretionary review pursuant to Fla. R. Civ. P. 9.030(a)(2)(A)(iv). The decisions in *Lanham* and in this cause are controlled by *Higgins v. Dyck-O'Neal, Inc.*, 201 So. 3d 157 (Fla. 1st DCA 2016) (holding that a

¹ Amended to correct error in Certificate of Service

RECEIVED 06/18/2018 2:48 pm FLORIDA SUPREME COURT
RECEIVED, 6/15/2018 4:15 PM, Kristina Samuels, First District Court of Appeal

party is not entitled to pursue a separate action for deficiency judgment where the foreclosure complaint includes a prayer for a deficiency judgment and the foreclosure court reserves jurisdiction to enter a deficiency judgment). In *Lanham*, this Court certified that its decision in *Higgins* conflicts with *Garcia v. Dyck-O'Neal, Inc.*, 178 So. 3d 433 (Fla. 3d DCA 2015); *Dyck-O'Neal, Inc. v. Hendrick*, 200 So. 3d 181 (Fla. 5th DCA 2016); *Gdovin v. Dyck-O'Neal, Inc.*, 198 So. 3d 986 (Fla. 2d DCA 2016) and *Dyck-O'Neal, Inc. v. McKenna*, 198 So. 3d 1038 (Fla. 4th DCA 2016). In addition, the decisions in *Higgins*, *Lanham* and in this appeal expressly and directly conflict with the above-cited decisions of the Second through Fifth districts on the same question of law. The Florida Supreme Court has accepted discretionary jurisdiction to review the foregoing certified and express conflict. See, Order Accepting Jurisdiction, *Dyck-O'Neal, Inc. v. Lanham*, Case No. SC2017-975, 2017 WL 4052015 (Fla. September 14, 2017). The Florida Supreme Court waived oral argument in *Lanham* and merits briefing was completed February 14, 2018.

Dated: June 15, 2018

Respectfully submitted,

/s/David M. Snyder
David M. Snyder
Florida Bar No. 366528
DAVID M. SNYDER
Professional Association
4230 S MacDill Ave E229

Tampa, Florida 33611-1901
Tel: 813-258-4501
Fax: 813-315-6206
Email: dmsnyder@dms-law.com
dmsnyder@ix.netcom.com
lorinelson0520@gmail.com

Susan B. Morrison
Florida Bar No. 394424
Law Offices of Susan B. Morrison, P.A.
1200 W Platt St Ste 100
Tampa, FL 33606-2136
Tel: 813-902-9293
Fax: 813-902-9275
Email: smorrisonlaw@gmail.com

Joshua D. Moore
Florida Bar No. 96062
Law Offices of Daniel C. Consuegra
9210 King Palm Dr., Ste. 110
Tampa, Florida 33619-1385
Joshua.moore@consuegralaw.com
lawsuitnotices@consuegralaw.com

Attorneys for Appellant/Petitioner
Dyck-O'Neal, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been
furnished on this 15th day of June 2018 via email to:

Michael S. Drews, Esquire
Florida Bar No: 382264
3603-1 Cardinal Point Drive
Jacksonville, FL 32257-9243
mdrews@drewslaw.net
kdrews@drewslaw.net
Phone: 904.367.8700

/s/ David M. Snyder
Attorney