

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
January Term 2007

ROBERT PAUL BROWN, JR.,
Appellant,

v.

**FLORIDA DEPARTMENT OF AGRICULTURE & CONSUMER
SERVICES; DOYLE CONNER, Commissioner of Agriculture, STATE OF
FLORIDA; DR. C.L. CAMPBELL, Director, DIVISION OF ANIMAL
INDUSTRY,**
Appellees.

No. 4D05-4044

[January 24, 2007]

KLEIN, J.

Appellant alleged in this case that he lost cattle in 1985 as a result of the cattle being confiscated by the state because of a brucellosis outbreak. He is seeking indemnification from the state for the appraised value of the cattle which were destroyed, under section 585.09, Florida Statutes (1985). After waiting many years to seek compensation, appellant brought this proceeding, and after a nonjury trial, the court concluded that appellant never presented his cattle for testing or for appraisal, which would have been necessary in order for appellant to be compensated under a stipulated order entered in the original action initiated by the Department of Agriculture in 1983. There is competent substantial evidence in this record to support the trial court's finding of fact that appellant did not demonstrate that the state had failed to fulfill any of its obligations, and that it was the appellant who failed to perform his obligations which are the source of his alleged loss. We accordingly affirm.

POLEN and MAY, JJ., concur.

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Appeal and cross-appeal from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Timothy P. McCarthy, Judge; L.T.

Case No. CA 83-6179 AB.

Carl A. Cascio of Carl A. Cascio, P.A., Delray Beach, and Shelley B. Maurice of Shelley B. Maurice, P.A., Boynton Beach, for appellant.

David W. Young, Tallahassee, for Florida Department of Agriculture and Consumer Services.

Not final until disposition of timely filed motion for rehearing.