

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT  
*January Term 2011*

**BRT HOLDINGS, INC.**, a Delaware Corporation,  
Appellant,

v.

**FIFTH GENERATION SYSTEMS, INC.**, a Delaware corporation qualified  
to do and doing business in the State of Florida,  
Appellee.

No. 4D09-3738

[April 27, 2011]

PER CURIAM.

BRT Holdings, Inc./plaintiff appeals from a final summary judgment in favor of defendant, Fifth Generation Systems, Inc., involving an asset purchase agreement. It claims that the court erred in interpreting the agreement between the parties as to the liabilities assumed by Fifth Generation. However, we find that the agreement did not provide for the assumption of the liabilities BRT claims were covered. We therefore affirm.

WARNER, POLEN and STEVENSON, JJ., concur.

\* \* \*

Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Carol-Lisa Phillips, Judge; L.T. Case No. 08-19110 25.

Keith T. Grumer and Maidenly Macaluso of Grumer & Macaluso, P.A., Fort Lauderdale, for appellant.

Richard F. Hussey of Richard F. Hussey, P.A., Fort Lauderdale, for appellee.

***Not final until disposition of timely filed motion for rehearing.***