STATEMENT OF THE ISSUES

1. Whether Johnson is entitled to the amount of compensation contained in his expert's bid ($102,663), because his expert's uncontradicted bid was the only damage calculation for a permanent repair.

The trial court denied Johnson's motion for directed verdict on the issue of compensation for a permanent repair and the jury awarded substantially less than the uncontradicted amount contained in Johnson's expert's bid. The trial court denied Johnson's motion for judgment notwithstanding the verdict as well.

2. Whether Johnson is entitled to prejudgment interest from October 1, 2001, through the date of judgment.

The trial court entered a judgment based on the jury's verdict that Johnson is not entitled to prejudgment interest from the date the damage occurred through the date of judgment. The trial court denied Johnson's motion for judgment notwithstanding the verdict on the issue of prejudgment interest.

3. Whether Johnson is entitled to a new trial based on: (1) inadequacy of damages that appear to have been given under the influence of passion and prejudice; (2) insufficiency of evidence to support the jury's verdict; (3) improper remarks from defense counsel during closing argument; and (4) previously undisclosed expert testimony regarding damage issues.

The trial court denied Johnson's motion for new trial.

4. Whether Johnson's appeal is timely.

This Court previously denied Lebert's motion to dismiss appeal for lack of timeliness and directed the parties to submit legal arguments on the issue of timeliness in their appeal briefs.