



SUPREME COURT OF GEORGIA

Case No. S15C1804

Atlanta, November 02, 2015

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed.

**TOYO TIRE NORTH AMERICA MANUFACTURING INC. v. DURON L. DAVIS et al.**

Court of Appeals Case No. A15A0201

The Supreme Court today granted the writ of certiorari in this case. All the Justices concur.

This case will be assigned to the February 2016 oral argument calendar automatically under Supreme Court Rule 50 (2), as amended September 13, 1996. Oral argument is mandatory in granted certiorari cases.

This Court is particularly concerned with the following issue or issues:

(1) Did the Court of Appeals err in concluding in Division 2 of its opinion that an issue of fact remained regarding whether or not the alleged nuisances and trespass proximately caused the plaintiffs' property to decrease in value?

(2) Did the Court of Appeals err in concluding in Division 4 of its opinion that a plaintiff may recover for both diminution in their property value and their personal discomfort in a nuisance action? Compare *Toyo Tire N. Am. Mfg., Inc. v. Davis*, 333 Ga. App. 211, 219

(4) (775 SE2d 796) (2015) ("It is well settled . . . that a plaintiff in an action for nuisance may recover for both damage to person and damage to property") with *Stanfield v. Waste Mgmt. of Ga., Inc.*, 287 Ga. App. 810 (652 SE2d 815) (2007) (In an action for nuisance, "[t]he law is . . . clear that a plaintiff may not recover for both discomfort and diminution of value") (emphasis supplied).

Briefs should be submitted only on these points. See Supreme Court Rule 45.

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta

I certify that the above is a true extract from the minutes of the Supreme Court of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

*Theresa A. Barnes*, Clerk