

# **dbbr** **DAILY BUSINESS REVIEW**

## **ON APPEAL**

# **3RD DCA SEPARATES TRIALS IN DUPONT CASE**

Individual trials are required in lawsuits filed by 20 Costa Rican fern growers on claims the DuPont pesticide Benlate ruined their crops, the 3rd District Court of Appeal ruled Wednesday.

The appellate court sided with DuPont and reversed a decision by Miami-Dade Circuit Judge Amy Steele Donner consolidating the growers' claims into a single eight-week trial in 2006, ruling there were too many differences among the growers to group them into a single trial on two lawsuits filed in 2001.

"This almost guaranteed incredible juror confusion," Chief Judge Juan Ramirez wrote in a 48-page opinion. He noted the jury produced identical awards for each grower.

In another victory for the chemical manu-

facturer, the court upheld directed verdicts against seven other growers under Costa Rica's statute of limitations in a case of first impression.

Growers under common ownership or management can be grouped for a retrial, but otherwise they must go to trial individually, the court ruled. Judge Angel Cortiñas and Senior Judge Alan Schwartz concurred.

In reaching its decision, the panel also cited a series of trial errors by Donner ranging from admission of prejudicial evidence to faulty jury instructions. Jurors were allowed to hear DuPont faced thousands of Benlate crop damage claims and settled some of them after recalling the fungicide. There was no response by deadline to calls for comment to DuPont and attorneys on both sides.