

FILED

IN THE SUPREME COURT OF FLORIDA

CASE NO.: 64,381

Fourth District Case Numbers:

82-1984
82-2085

OCT 26 1983

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NEIL J. KARLIN, M.D., and
FLORIDA PATIENT'S COMPENSATION FUND,

Petitioners,

vs.

DONNA DENSON and JOSEPH DENSON,

Respondents.

ON PETITIONERS' PETITION FOR DISCRETIONARY REVIEW
OF A DECISION OF THE DISTRICT COURT OF APPEAL OF
FLORIDA, FOURTH DISTRICT

RESPONDENTS' REPLY BRIEF ON JURISDICTION

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STATEMENT OF THE CASE AND FACTS

The subject opinion of the District Court of Appeal, Fourth District, deals with two (2) appeals. Case Number 82-1984 is an appeal by Defendants-Petitioners from a Final Judgment and Amended Final Judgments in favor of the Plaintiffs-Respondents (A1-A4); case Number 82-2085 is an appeal from a Final Order Awarding Attorneys' Fees to the Plaintiffs-Respondents (A5-A9).

The Petitioners-Defendants now seek discretionary review only of Case Number 82-2085, dealing with the award of Attorneys' Fees on the affirmance of the constitutionality of Section 768.56, Florida Statutes.

ARGUMENT

This Court has discretionary jurisdiction over Case Number 80-2085 dealing with the constitutionality of Attorneys' Fees. This Court does not have jurisdiction over Case Number 82-1984 dealing with the Final Judgment and Amended Final Judgments for the Plaintiffs-Respondents.

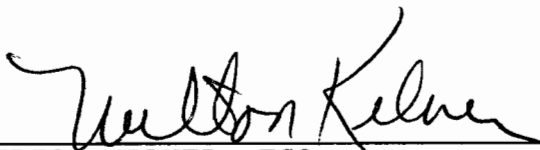
For the reasons set forth by the Opinions in Florida Medical Center, Inc. v. Von Stetina, (Fla. 4th DCA 1982) 8 Fla. L.W. 2038, at page 2041, and Davis v. North Shore Hospital, Leonard Cantor, M.D. v. Kathe, M.D., (Fla. 3rd DCA 1982) 8 Fla. L.W. 2488; and Young v. Altenhaus (Fla. 3rd DCA 1982) 8 Fla. L.W. 2489, this Court should decline to exercise its discretion to review the constitutionality of Section 768.56, Florida Statutes. This issue is not one that warrants this Court's time and effort.


CONCLUSIONS

1. This Court has no jurisdiction of Case Number 82-1984 and the Petitioners' attempt to invoke this Court's discretionary jurisdiction should be denied.

2. This Court has discretionary jurisdiction over Case Number 82-2085, but should decline to exercise its discretion to review Case Number 82-2085.

Respectfully submitted,

BY: 
MILTON KELNER, ESQ.,

BY: 
JOHN D. KELNER, ESQ.,

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing RESPONDENTS' REPLY ON JURISDICTION was furnished by U.S. mail to: RICHARD B. COLLINS, ESQ., PERKINS & COLLINS, 702 Lewis State Bank Building, Tallahassee, Florida 32301 and to: TALBOT D'ALEMBERTE, ESQ., SAMUEL J. DUBBIN, ESQ., JEFFREY B. CROCKETT, ESQ., STEEL, HECTOR & DAVIS, 1400 Southeast Bank Building, Miami, Florida 33131, this 24th day of October, 1983.

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