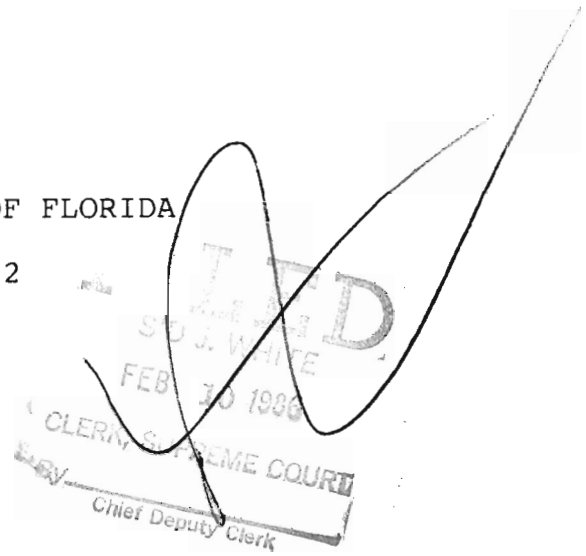
IN THE SUPREME COURT OF FLORIDA

CASE NO. 67,742



FLORIDA PATIENT'S COMPENSATION FUND,

Petitioner,

vs.

HERBERT COHEN,

Respondent.

_____/

ON DISCRETIONARY REVIEW FROM THE DISTRICT COURT OF APPEAL OF FLORIDA, FOURTH DISTRICT

RESPONDENT'S BRIEF ON THE MERITS

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AUTHORITIES

I.
STATEMENT OF THE CASE AND FACTS

Because the petitioner's statement of the case and facts unfairly paraphrases the allegations of the respondent's complaint, and because it contains an inaccuracy or two, we feel constrained to restate the case and facts briefly.

The respondent, Herbert Cohen, is a plaintiff in a medical malpractice action below. his initial complaint (which will be quoted in pertinent part *infra*) alleges that Dr. Paul Baxt (and his professional association) misdiagnosed a knee injury during a course of treatment from April through July, 1980; that the misdiagnosis resulted in subsequent mistreatment of the knee injury in several respects; and that the misdiagnosis and resultant mistreatment caused him injury (R. 1). According to the allegations of the initial complaint, Mr. Cohen discovered Dr. Baxt's misdiagnosis "on or about September 24, 1980" (R. 3, ¶15). The initial complaint was filed on December 9, 1981, well within the two-year statute of limitations provided by §95.11(4)(b), Fla. Stat. (1981) (R. 1). On August 31, 1982--*less than* two years after the date of discovery of Dr. Baxt's misdiagnosis, according to the allegations of Mr. Cohen's complaint--a second amendment to the complaint was filed which added the Florida Patient's Compensation Fund (hereinafter "Fund") as a defendant (R. 21).

In its answer to the second amendment to the complaint, the Fund alleged the statute of limitations as an affirmative defense (R. 26). Contemporaneously with its answer, the Fund filed a motion for summary judgment which asserted the following grounds:

> 1. It appears on the face of the Complaint, that the Plaintiff became a patient of Dr. Baxt on April 9, 1980. The Complaint contains allegations of malpractice by the

> Defendant beginning on or about that date, with notice to him of the same no later than May, 1980.
>
> 2. As a matter of law, the FLORIDA PATIENT'S COMPENSATION FUND was not named as a Defendant in this suit until long after the Statute of Limitations for the Plaintiff to name the FLORIDA PATIENT'S COMPENSATION FUND as a Defendant had run. This Defendant is entitled to Summary Judgment as a matter of law based upon Florida Statute 95.11(4).

(R. 28).

This motion was initially denied (R. 29). It was later renewed, however, and ultimately granted--and a final judgment was entered in favor of the Fund on the ground that the plaintiff's complaint demonstrated on its face, and as a matter of law, that the two-year statute of limitations had run against the Fund prior to August 31, 1982 (R. 30, 55). The plaintiff appealed to the District Court of Appeal, Fourth District (R. 78). The District Court reversed, on alternative grounds--holding (1) that the two-year statute of limitation contained in §95.11(4)(b) did not apply to the Fund, and (2) that even if §95.11(4)(b) applied, the allegations of the plaintiff's complaint did not conclusively demonstrate, as a matter of law, that the plaintiff had discovered all the elements of his cause of action more than two years prior to the Fund's joinder in the suit. *Cohen v. Baxt*, 473 So.2d 1340 (Fla. 4th DCA 1985). Because the first of these alternative conclusions was in conflict with decisions of several of the other District Courts of Appeal, the conflict on that issue was certified to this Court. This Court accepted jurisdiction.

II.
ISSUES ON DISCRETIONARY REVIEW

A. WHETHER THE DISTRICT COURT ERRED IN CONCLUDING THAT THE TWO-YEAR STATUTE OF LIMITATIONS CONTAINED IN §95.11(4)(b), FLA. STAT. (1981), GOVERNED THE JOINDER OF THE FUND.

B. ALTERNATIVELY, IF THE DISTRICT COURT ERRED IN ITS CONCLUSION CONCERNING THE APPLICABILITY OF §95.11(4)(b), WHETHER IT ALSO ERRED IN REVERSING THE SUMMARY FINAL JUDGMENT IN FAVOR OF THE FUND ON THE GROUND THAT THE ALLEGATIONS OF THE PLAINTIFF'S COMPLAINT DID NOT CONCLUSIVELY PROVE THAT THE TWO-YEAR STATUTE OF LIMITATIONS HAD RUN ON HIS CLAIM AS A MATTER OF LAW.

III.
SUMMARY OF ARGUMENT

ISSUE A. In view of this Court's recent decision in *Taddiken v. Florida Patient's Compensation Fund*, 478 So.2d 1058 (Fla. 1985), and its companion cases, we concede that the District Court erred in concluding that the plaintiff was not required to join the Fund within the two-year limitations period provided by §95.11(4)(b), Fla. Stat. (1981).

ISSUE B. Notwithstanding the District Court's error on the threshold legal question of the applicability of §95.11(4)(b), the District Court was eminently correct in concluding alternatively that the allegations of the plaintiff's complaint did not conclusively demonstrate, as a matter of law, that the plaintiff had discovered all the elements of his cause of action more than two years prior to joining the Fund. The Court need not reach this issue, of course. It may simply disapprove the District Court's first holding, decline to review the alternative holding, and remand to the District Court for further proceedings. If the Court exercises its discretion to review the District Court's alternative holding, however, we think it will readily conclude

that the District Court properly resolved the alternative issue presented below. Our argument on that issue will be short and simple, and little more than a summary itself, so we will turn directly to the merits in lieu of simply repeating ourselves here.

IV.
ARGUMENT

A. WE CONCEDE THAT THE DISTRICT COURT ERRED IN CONCLUDING THAT THE TWO-YEAR STATUTE OF LIMITATIONS CONTAINED IN §95.11(4)(b), FLA. STAT. (1981), GOVERNED THE JOINDER OF THE FUND.

In view of this Court's recent decision in *Taddiken v. Florida Patient's Compensation Fund,* 478 So.2d 1058 (Fla. 1985), and its companion cases, in which this Court resolved the conflict in the decisional law on this point, we concede here that the District Court erred in concluding that the plaintiff was not required to join the Fund within the two-year period provided by §95.11(4)(b). That concession does not require that the District Court's decision be quashed, however, because the District Court anticipated this Court's ultimate resolution of the conflict among the district courts and held alternatively that, even if §95.11(4)(b) governed the Fund's joinder, the Fund had still not demonstrated its entitlement to summary judgment on the statute of limitations issue.

In our judgment, the most efficient course for this Court to follow would be simply to disapprove the first holding of the District Court's decision, decline to reach the alternative holding, and remand the case to the District Court for further proceedings. *See Sanchez v. Wimpey,* 409 So.2d 20 (Fla. 1982) (where

conflict resolved, no reason to review non-conflicting alternative holding of District Court). We respectfully request such a disposition here.

B. THE DISTRICT COURT DID NOT ERR IN CONCLUDING THAT THE ALLEGATIONS OF THE PLAINTIFF'S COMPLAINT DID NOT CONCLUSIVELY PROVE THAT THE TWO-YEAR STATUTE OF LIMITATIONS HAD RUN ON HIS CLAIM AS A MATTER OF LAW, AND IN REVERSING THE SUMMARY FINAL JUDGMENT AS A RESULT.

If the Court chooses to visit this second issue (notwithstanding, as we shall note, that it has recently written two definitive decisions on the subject), we respectfully submit that it was correctly decided by the District Court. Section 95.11(4)(b) contains a "discovery rule", and it does not begin to run until the plaintiff has discovered (or should, in the exercise of reasonable diligence, have discovered) his cause of action.[1/] The decisional law (which includes two recent decisions of this Court) makes it clear that the statute does not begin to run until the plaintiff has fully discovered all of the elements of his cause of action--the defendant's negligence, the plaintiff's injury, and the causal relationship between the two. *See, e. g., Moore v. Morris,* 475 So.2d 666 (Fla. 1985); *Ash v. Stella,* 457 So.2d 1377 (Fla. 1984); *Florida Patient's Compen-*

[1/] The portion of the statute implicated by this case reads as follows:

> An action for medical malpractice shall be commenced within 2 years from the time the incident giving rise to the action occurred or within 2 years from the time the incident is discovered, or should have been discovered with the exercise of due diligence; . . .

sation Fund v. Tillman, 453 So.2d 1376 (Fla. 4th DCA 1984); *Phillips v. Mease Hospital & Clinic,* 445 So.2d 1058 (Fla. 2nd DCA), *review denied,* 453 So.2d 44 (Fla. 1984); *Sewell v. Flynn,* 459 So.2d 372 (Fla. 1st DCA 1984), *review denied,* 471 So.2d 43 (Fla. 1985); *Swagel v. Goldman,* 393 So.2d 65 (Fla. 3rd DCA 1981); *Nolen v. Sarasohn,* 379 So.2d 161 (Fla. 3rd DCA 1980). *Cf. Alford v. Summerlin,* 423 So.2d 482 (Fla. 1st DCA 1982); *Tetstone v. Adams,* 373 So.2d 362 (Fla. 1st DCA 1979), *cert. denied,* 383 So.2d 1189 (Fla. 1980); *Walker v. Dunne,* 368 So.2d 640 (Fla. 2nd DCA 1979).

The Fund's burden on its motion for summary judgment is also well settled. It was the Fund's burden to demonstrate *conclusively* that there were no material issues of fact requiring resolution by a finder of fact, and that it was entitled to judgment as a matter of law. *See Moore v. Morris,* 475 So.2d 666 (Fla. 1985); *Wills v. Sears, Roebuck & Co.,* 351 So.2d 29 (Fla. 1977); *Holl v. Talcott,* 191 So.2d 40 (Fla. 1966); *Visingardi v. Tirone,* 193 So.2d 601 (Fla. 1966). Similarly, "a summary judgment should not be granted unless the facts are so crystallized that nothing remains but questions of law." *Moore v. Morris, supra,* 475 So.2d at 668. Where there is any doubt whatsoever, that doubt must be resolved against the moving party. *See McCabe v. Walt Disney World Co.,* 350 So.2d 814 (Fla. 4th DCA 1977); *Goode v. Walt Disney World Co.,* 425 So.2d 1151 (Fla. 5th DCA 1982), *review denied,* 436 So.2d 101 (Fla. 1983); *Axelrod v. Califano,* 357 So.2d 1048 (Fla. 1st DCA 1978). The motivating animus behind these strict rules governing motions for summary judgment is, of course, the constitutional guaranty of a right to trial of the facts by a jury. *See Hernandez v. Motrico, Inc.,* 370 So.2d 836 (Fla. 3rd DCA 1979).

We therefore take it that the Fund's burden below was to demonstrate *conclusively*, and *as a matter of law*--from the face of the initial complaint, which is the only document relied upon by the Fund in its motion for summary judgment--that Mr. Cohen "discovered" or "should have discovered" all of the elements of his cause of action more than two years prior to the date his amendment to the complaint was filed, or before September 1, 1980.[2/] In our judgment, the Fund did not, and could not, carry that burden on the allegations of Mr. Cohen's initial complaint.

The relevant allegations of the initial complaint read as follows:

> 5. On or about April 9, 1980, the Plaintiff became a patient of the Defendant, PAUL BAXT, M.D., and of the Defendant, CRANE, NILES & BAXT, M.D, ORTHOPEDIC ASSOCIATES, P.A., seeing at one time or another each member of said professional association.
>
> 6. During said April 9, 1980 visit at the office of CRANE, NILES & BAXT, M.D., ORTHOPEDIC ASSOCIATES, P.A., the Plaintiff, HERBERT COHEN, was diagnosed by the Defendant, PAUL BAXT, M.D., as having an injury to the cartilage of his left knee.
>
> 7. On or about April 11, 1980, pursuant to the recommendation of the Defendant, PAUL BAXT, M.D, said Defendant admitted the Plaintiff to Hollywood Medical Center for [the] purpose of undergoing arthroscopy. At said time, the Defendant, PAUL BAXT, M.D., advised the Plaintiff that he had a partial tear of

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[2/] The Fund has conceded here that the appropriate date for statute of limitation purposes is the date the amendment was filed with the motion for leave to amend (August 31, 1982)--not the date that motion was ultimately granted, or the date the Fund was served with process. *Smith v. Metropolitan Dade County*, 338 So.2d 878 (Fla. 3rd DCA 1976). *See Cloer v. Shawver*, 177 So.2d 691 (Fla. 1st DCA 1965). *Compare Garrido v. Markus, Winter & Spitale Law Firm*, 358 So.2d 577 (Fla. 3rd DCA 1978).

the medial meniscus and that it did not require surgical removal. It is further alleged that said Defendant failed to advise the Plaintiff herein as to any problems or difficulties with the interior cruciate ligament although said ligament was, indeed, damaged at that time, a fact which either the Defendant knew and failed to advise said Plaintiff of or alternatively which said Defendant failed to recognize.

8. On or about April 11, 1980, at the conclusion of the arthroscopy, the Defendant, PAUL BAXT, M.D., placed upon the left leg of said Plaintiff a plaster cast.

9. On or about April 13, 1980, the Plaintiff went to the office of said Defendant wherein the subject plaster case was removed and was replaced by a fiberglass cast.

10. On or about April 15, 1980, the Plaintiff went to the office of the Defendant and complained of excruciating pain under said cast. At said time and place, the Defendant, PAUL BAXT, M.D., failed to appear to inspect and/or measure said cast.

11. On or about April 16, 1980, due to continuing pain, Dr. Baxt's associate, Dr. Crane, ordered the subject cast removed but by then a large lump had appeared in the left calf of said Plaintiff. Furthermore, during the removal of said cast, an agent, servant and/or employee of said Defendants removed the cast in the [sic] negligent fashion thereby leaving permanent burn marks on the leg of said Plaintiff.

12. On or about April 18, 1980, the Plaintiff was readmitted to Hollywood Medical Center by said Defendant for purposes of undergoing a venogram to determine the cause of the above-described collection of blood growing in the calf of said Plaintiff. A diagnosis was made by the Defendants of a condition of deep vein thrombophlebitis and said Plaintiff was required to undergo anticoagulate therapy. The patient was required to stay in said hospital until April 27, 1980.

13. On or about May 10, 1980, said Plaintiff was admitted to the Osteopathic General Hospital with blood clots in his kidneys caused by improper anti-coagulation therapy as performed at the Hollywood Memorial Hospital from April 18th through April 27th by the Defendants as described herein. Said Plaintiff was required to stay at the Osteopathic General Hospital until his discharge on May 14, 1980.

14. During the months of May, June and July, 1980, pursuant to the instructions of the Defendant, PAUL BAXT, M.D., the Plaintiff herein performed exercises utilizing a weighted boot in an effort to increase the strength of his knee. Said exercises, recommended inappropriately by said Defendant, further caused deterioration of said Plaintiff's knee so that on August 10, 1980, during routine physical activity, the Plaintiff herein collapsed and was rushed to Hollywood Memorial Hospital when and where he requested the services of the Defendants herein. However, none of the Defendants herein would respond to his call and having been given pain medication via a telephone order, said Plaintiff was discharged from the hospital again in pain.

15. On or about September 24, 1980, the Plaintiff was admitted to Parkway General Hospital under the care of another orthopedic surgeon wherein it was discovered that he had, indeed, sustained an "O'Donahue triad" knee injury which was undiagnosed by the Defendants herein.

16. On or about February 6, 1981, the Plaintiff herein was finally operated on again for an anterior cruciate ligament substitution of the left knee at the Hospital for Special Surgery, New York, New York.

(R. 1-3).

To be sure, the complaint alleges an initial misdiagnosis and a course of mistreatment thereafter through August 10, 1980--but it does not allege that the plaintiff discovered all

the elements of his cause of action before September 1, 1980. The *only* allegation in the complaint concerning discovery is in paragraph 15, in which Mr. Cohen acknowledges discovery of Dr. Baxt's initial misdiagnosis on September 24, 1980--*less than* two years before the amendment naming the Fund was filed. It therefore cannot be said *as a matter of law* that Mr. Cohen actually discovered all the elements of his cause of action more than two years before the Fund's joinder--and the issue presented to the trial court on the Fund's motion for summary judgment was therefore whether the allegations of the complaint conclusively proved, as a matter of law, that Mr. Cohen "should have . . . discovered with the exercise of due diligence" all of the elements of his cause of action more than two years prior to filing suit:

> We note that the record shows appellant had no "actual knowledge" which would have caused the statute to run. Thus, the critical question before the trial court at the time that it entered the summary final judgment was whether appellant "should have known by the exercise of reasonable diligence" whether he had a cause of action against appellees . . . .

Rosen v. Sparber, 369 So.2d 960, 961 (Fla. 3rd DCA 1978), *cert. denied*, 376 So.2d 76 (Fla. 1979). *See Poulos v. Vordermeir*, 327 So.2d 245 (Fla. 4th DCA 1976).

The decisional law construing "should have discovered" provisions in statutes of limitation uniformly holds that such a question is simply not susceptible of determination as a matter of law--and that it must be decided by a trier of fact. *Weiner v. Savage*, 407 So.2d 288 (Fla. 4th DCA 1981); *Pinkerton v. West*, 353 So.2d 102 (Fla. 4th DCA 1977), *cert. denied*, 365 So.2d 715 (Fla. 1978); *Schetter v. Jordan*, 294 So.2d 130 (Fla. 4th DCA

1974); *Burnside v. McCrary*, 382 So.2d 75 (Fla. 3rd DCA 1980); *Rosen v. Sparber*, 369 So.2d 960 (Fla. 3rd DCA 1978), *cert. denied*, 376 So.2d 76 (Fla. 1979); *Green v. Bartel*, 365 So.2d 785 (Fla. 3rd DCA 1978); *Downing v. Vaine*, 228 So.2d 622 (Fla. 1st DCA 1969), *appeal dismissed*, 237 So.2d 767 (Fla. 1970); *First Federal Savings & Loan Association of Wisconsin v. Dade Federal Savings & Loan Association*, 403 So.2d 1097 (Fla. 5th DCA 1981).

The reason for this rule is that, in negligence cases, there are no fixed rules for what is and what is not "reasonable care"--or its twin sister, "due diligence". Determinations of whether a party has exercised "reasonable care" or "due diligence" under all the circumstances belong to the "conscience of the community" impaneled to make that determination, according to prevailing community standards--not to the court to determine as a matter of law. *See, e. g., Orlando Executive Park, Inc. v. Robbins*, 433 So.2d 491 (Fla. 1983); *Acme Electric, Inc. v. Travis*, 218 So.2d 788 (Fla. 1st DCA), *cert. denied*, 225 So.2d 917 (Fla. 1969); *Holley v. Mt. Zion Terrace Apts., Inc.*, 382 So.2d 98 (Fla. 3rd DCA 1980); *English v. Florida State Board of Regents*, 403 So.2d 439 (Fla. 2nd DCA 1981).

Because we do not believe the question is even close, we will not belabor the point with a detailed analysis of the allegations of the complaint. Suffice it to say simply that, notwithstanding that Mr. Cohen was in pain and had obvious physical problems before September 1, 1980, nothing in those allegations *conclusively* proves *as a matter of law* that he "should have . . . discovered with the exercise of due diligence" all the elements of his cause of action--negligence, injury, and causal relationship--before that date. Fairly read, the allegations are per-

fectly susceptible of an inference that Mr. Cohen could have reasonably believed that the continuing pain and subsequent problems were simply a normal consequence of the pre-existing condition for which he was treated, or a normal consequence of the treatment itself; and they are also susceptible of the reasonable inference that the precise nature of the negligent misdiagnosis and mistreatment was not discovered because of Dr. Baxt's advice to Mr. Cohen that his problems were caused by something other than the initial misdiagnosis and subsequent mistreatment.

In those circumstances, a factual question clearly exists as to whether Mr. Cohen was on notice of all the elements of his cause of action prior to September 1, 1980. *See, e. g., Moore v. Morris,* 475 So.2d 666 (Fla. 1985); *Ash v. Stella,* 457 So.2d 1377 (Fla. 1984); *Florida Patient's Compensation Fund v. Tillman,* 453 So.2d 1376 (Fla. 4th DCA 1984); *Salvaggio v. Austin,* 336 So.2d 1282 (Fla. 2nd DCA 1976); *Tetstone v. Adams,* 373 So.2d 362 (Fla. 1st DCA 1979), *cert. denied,* 383 So.2d 1189 (Fla. 1980); *Brooks v. Cerrato,* 355 So.2d 119 (Fla. 4th DCA), *cert. denied,* 361 So.2d 831 (Fla. 1978); *Almengor v. Dade County,* 359 So.2d 892 (Fla. 3rd DCA 1978); *Swagel v. Goldman,* 393 So.2d 65 (Fla. 3rd DCA 1981); *Walker v. Dunne,* 368 So.2d 540 (Fla. 2nd DCA 1979); *Phillips v. Mease Hospital & Clinic,* 445 So.2d 1058 (Fla. 2nd DCA), *review denied,* 453 So.2d 44 (Fla. 1984). *Cf. Pinkerton v. West,* 353 So.2d 102 (Fla. 4th DCA 1977), *cert. denied,* 365 So.2d 715 (Fla. 1978). At the very least, the issue (which is, after all, an affirmative defense not required to be anticipated in the complaint) should not be decided on the barebones "notice pleading" upon which it was decided by the trial court.

A final word is in order concerning the Fund's resort to the settled principle that a statute of limitations begins to run when some injury is manifest, even though the full extent of the injury is not discovered until some subsequent time. We have no quarrel with this principle. It is simply inapplicable here--for two reasons. First, discovery of a mere injury does not start the statute of limitations running in a medical malpractice case. As we trust we have made clear, §95.11(4)(b) does not begin to run until the medical malpractice victim has discovered the injury, the defendant's negligence, and the causal relationship between the two. The Fund's argument concerning Mr. Cohen's mere awareness of his accumulating physical problems is therefore beside the point here.

Just as importantly, even if mere knowledge of some injury, without knowledge that the injury was caused by negligence, were sufficient to start a statute of limitations running, the Fund has only found two "injuries" in the plaintiff's complaint upon which to fashion its argument here. It contends that the plaintiff knew he had been negligently injured when he was burned during the removal of his cast in April, 1980 (a point which is arguable, but probably correct), and that he knew that his anti-coagulation therapy had been negligently performed in May, 1980 (a point which we will not concede). (We will not concede the latter point, because the allegations of the plaintiff's complaint state only that the anti-coagulation therapy was improperly performed; they do not provide sufficient facts to demonstrate conclusively, and as a matter of law, that this malpractice was discovered before September, 1980.) These facts do not invoke the principle relied upon by the Fund, however, because these items of damage do not flow directly from the initial mis-

diagnosis (discovered in September, 1980). Instead, they are items of damage caused by separate, successive acts of malpractice.

In effect, the plaintiff has alleged three separate causes of action in his complaint: (1) the initial misdiagnosis and the resulting inappropriate treatment, and two additional causes of action occurring during the resulting treatment--(2) the negligently caused burns and (3) the negligently performed anti-coagulation therapy. That the statute of limitations may have run on one or two of these separate causes of action does not mean that it has also run on the separate, primary claim in suit--the initial misdiagnosis and the resulting inappropriate treatment. *See Sewell v. Flynn,* 459 So.2d 372 (Fla. 1st DCA 1984), *review denied,* 471 So.2d 43 (Fla. 1985) (discovery of malpractice in improperly placed tendon did not start statute of limitations running against malpractice claim for negligently installing prosthesis upside down during same operation). That primary cause of action, according to the allegations of the plaintiff's complaint, was discovered less than two years before the Fund was joined in the suit--and the summary judgment entered in the Fund's favor on *that* cause of action was clearly erroneous as a result.

In sum, even though the Fund is now correct that the applicable statute of limitations is §95.11(4)(b), it has not conclusively demonstated as a matter of law that the statute of limitations has run on all the claims alleged in the plaintiff's complaint. A jury may yet find that to be a fact in this case, but that determination simply cannot be made as a matter of law on the barebones pleadings in this case. We therefore respectfully

urge once again that the summary final judgment entered in the Fund's favor by the trial court was erroneous, and that the District Court correctly reversed it. Indeed, we think that the District Court's alternative holding was clearly compelled by this Court's recent decisions on the point--and, if the issue is reached, the alternative holding of the District Court's decision should be approved.

V.
CONCLUSION

It is respectfully submitted that the District Court's conclusion concerning the applicability of §95.11(4)(b) should simply be disapproved, that the District Court's alternative holding should not be reached, and that the case should be remanded to the District Court for further proceedings. Alternatively, if the Court chooses to reach the District Court's alternative holding, that holding should be approved, and the case should be remanded to the District Court for further proceedings.

VI.
CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true copy of the foregoing was mailed this 7th day of February, 1986, to: Norman Klein, Esq., 2750 N.E. 187th Street, North Miami Beach, Fla. 33180; Steven Billing, Esq., 790 East Broward Blvd., Ft. Lauderdale, Fla. 33301; and to Samuel R. Neel, III, Esq., Perkins & Collins, Post Office Drawer 5286, Tallahassee, Fla. 32314.

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