

IN THE SUPREME COURT OF FLORIDA

FILED
SID J. WHITE

FLORIDA PATIENT'S COMPENSATION
FUND,

SEP 22 1986

Petitioner,

CLERK, SUPREME COURT

vs.

By _____
Deputy Clerk

CASE NO. 69,230

GEORGE BOUCHOC, et al.,

Respondents.

Discretionary Review
Third District Court of Appeal

ANSWER BRIEF OF EDNA PETERSON
ON JURISDICTION

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SUMMARY OF THE ARGUMENT

Conflict jurisdiction is manifest.

The decision of the Third District Court of Appeal is correct. A subsequent decision of the Second District Court of Appeal approved the dissenting opinion in this case and reached a result contrary to the meaning and purpose of the Medical Malpractice Reform Act.

This Court should exercise its discretionary jurisdiction and approve the decision of the Third District Court of Appeal in the case presented here.

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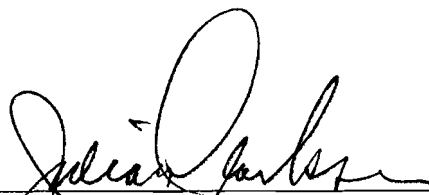
Respondent EDNA PETERSON was plaintiff in the trial court. That court's final judgment awarded her attorney's fees based on section 768.56, Florida Statutes (1983), against both the health care providers and the Florida Patient's Compensation Fund (the Fund). The trial court's further order limiting the liability of the health care providers was affirmed by the district court of appeal. PETERSON's position in the district court was that the trial court's rulings were correct but, in any event, she was entitled to recover either against the Fund or the health care providers. The dominant issue below was which of the defendants were responsible for the fee award.

Jurisdiction

PETERSON concedes that the decision below conflicts with the decision of the Second District Court of Appeal in Florida Patient's Compensation Fund v. Maurer, 11 F.L.W. 1852 (Fla. 2d DCA August 22, 1986), a case decided after the Fund invoked this Court's jurisdiction in the present case. Indeed, the appellees in Maurer have filed papers in the Second District Court of Appeal advising of their intention to seek review by this Court of that decision based upon conflict between the two decisions.

PETERSON suggests that this Court should exercise its discretionary jurisdiction here for the purpose of approving the decision of the Third District Court of Appeal and disapproving the conflicting decision of the Second District Court of Appeal.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by United States Mail to Joe N. Unger, Esquire, 606 Concord Building, 66 West Flagler Street, Miami, Florida 33130; H. Lawrence Hardy, Esquire, 299 Alhambra Circle, Coral Gables, Florida 33134; Liana Silsby, Attorney at Law, 2400 AmeriFirst Building, One S.E. 3rd Avenue, Miami, Florida 33131; and Betsy E. Gallagher, Attorney at Law, Talbut, Kubicki, Bradley & Draper, 701 City National Bank Building, 25 West Flagler Street, Miami, Florida 33130, this 22nd day of September, 1986.



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