

# Supreme Court of Florida

**ORIGINAL**

No. 79,024

STATE OF FLORIDA, et al., Appellants/Cross-Appellees,

vs.

LEWIS E. MELAHN, etc., Appellee/Cross-Appellant.

[July 23, 1992]

KOGAN, J.

We have on appeal a judgment declaring Florida's insurance premium tax scheme, sections 624.509, .512, .514, Florida Statutes, as it existed during the years 1980 through 1985, unconstitutional under the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution. The district court certified the cause to this Court as involving a question of great public importance requiring immediate

resolution. We have jurisdiction, pursuant to article V, section 3(b)(5) of the Florida Constitution, and reverse based on our decision in Gallagher v. Motors Insurance Co., No. 79,061 (Fla. July 23, 1992).

Accordingly, we reverse the judgment under review to the extent it finds Florida's premium tax unconstitutional<sup>1</sup> and remand for further proceedings consistent with our decision in Motors Insurance.

It is so ordered.

BARKETT, C.J. and McDONALD, SHAW and GRIMES, JJ., concur.  
HARDING, J., dissents with an opinion, in which OVERTON, J., concurs.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED.

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<sup>1</sup> Because of our resolution of this issue, we need not address the other issues raised on appeal.

HARDING, J., dissenting.

I respectfully dissent for the reasons expressed in my opinion in Gallagher v. Motors Insurance Corp., No. 79,061 (Fla. July 23, 1992) (Harding, J., concurring in part, dissenting in part).

OVERTON, J., concur.

Direct Appeal of Judgment of Trial Court, in and for Leon County,  
F. E. Steinmeyer, Judge - Case No. 90-4435 - Certified by the  
District Court of Appeal, First District - Case No. 91-3605

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