

Supreme Court of Florida

No. 90,326

PUBLIC MEDICAL ASSISTANCE TRUST FUND, et al.,
Petitioners,

vs.

NATHAN M. HAMEROFF, M.D., et al.,
Respondents.

[April 8, 1999]

REVISED OPINION

PER CURIAM.

We have for review Public Medical Assistance Trust Fund v. Hameroff, 689 So. 2d 358 (Fla. 1st DCA 1997), which expressly and directly conflicts with the decision in Nemeth v. Florida Department of Revenue, 686 So. 2d 778 (Fla. 4th DCA 1997). We have jurisdiction. Art. V, § 3(b)(3), Fla. Const.

We recently quashed the Fourth District's decision in Nemeth because the respondents in that case failed to file suit challenging the constitutionality of the vehicle impact fee statute¹ within the three-year time limit mandated by section 215.26(2),

¹§ 320.072(1)(b), Fla. Stat. (1990).

Florida Statutes (Supp. 1994). Department of Revenue v. Nemeth, 24 Fla. L. Weekly 160, 160-61 (Fla. Apr. 8, 1999). Accordingly, we approve the decision in Hameroff to the extent that it is consistent with our opinion in Nemeth. However, we find it necessary to remand this case with directions that the trial court determine if all the representative class members filed suit based solely upon allegations that the tax was unconstitutional and within three years after making payment of the "assessment" contained in section 395.7015(2)(b), Florida Statutes (1993).

It is so ordered.

HARDING, C.J., SHAW, WELLS and ANSTEAD, JJ., and OVERTON, Senior Justice, concur.

PARIENTE, J., did not participate in this case.

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

Application for Review of the Decision of the District Court of Appeal - Direct Conflict

First District - Case No. 96-2172

(Leon County)

Robert A. Butterworth, Attorney General, and Eric J. Taylor, Assistant Attorney General, Tallahassee, Florida,

for Petitioners

Murray B. Silverstein of Powerll, Carney, Hayes & Silverstein, P.A., St. Petersburg,
Florida, and Cynthia A. Mikos of Holland & Knight LLP, Brandon, Florida,

for Respondents