

IN THE SUPREME COURT  
STATE OF FLORIDA

CASE NOS. SC01-2062, SC01-2079

PHYSICIANS HEALTHCARE PLANS,  
INC., et al.

Petitioners,

v.

RAYMOND PFEIFLER, et ux.,

Respondents.

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KHURSHID KHAN, M.D., et al.,

Petitioners,

v.

RAYMOND PFEIFLER, et ux.,

Respondents.

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**REPLY TO RESPONSES TO PETITION FOR WRIT OF PROHIBITION  
OF PETITIONERS KHURSHID KHAN, M.D.,  
EMSA SOUTH BROWARD, INC., and SOUTH BROWARD HOSPITAL  
DISTRICT d/b/a MEMORIAL REGIONAL HOSPITAL**

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**An Original Proceeding from the Circuit Court of the  
Seventeenth Judicial Circuit in and for Broward County, Florida**

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## **CERTIFICATE OF TYPE SIZE AND STYLE**

Pursuant to Florida Rule of Appellate Procedure 9.210(a)(2), Petitioners Khurshid Khan, M.D., EMSA South Broward, Inc., and South Broward Hospital District d/b/a Memorial Regional Hospital, certify that the type size and style of this brief is 14 point Times New Roman.

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## **PREFACE**

Petitioners Khurshid Khan, M.D., EMSA South Broward, Inc., and South Broward Hospital District d/b/a Memorial Regional Hospital will be referred to as “SBHD.”

Respondent the Circuit Court of the Seventeenth Judicial Circuit in and for Broward County, Florida will be referred to as the “Seventeenth Circuit.”

Respondents Raymond Pfeifler and Cynthia Pfeifler, his wife, will be referred to as the “Pfeiflers.”

SBHD’s Appendix will be cited as “A\_\_.”

## ARGUMENT

### **I. BROWARD COUNTY'S PRESENT USE OF RETIRED JUDGES VIOLATES PETITIONER'S RIGHT OF ACCESS TO THE COURTS.**

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SBHD believes it is important to clarify certain aspects of its Petition and this litigation. First, while SBHD sees the Seventeenth Circuit's current use of senior judges as violative of certain fundamental rights and capable of improvement, SBHD certainly does not suggest elimination of the Senior Judges' Docket, as the Seventeenth Circuit and the Pfeiflers appear to understand. SBHD made it quite clear that it believes the judges should be used across the scope of Seventeenth Circuit litigation rather than only for "complex" long cases.

Second, SBHD does not see this case as the typical adversary proceeding. The purpose of this proceeding, at least as far as SBHD is concerned, is to improve if possible the provision of legal services in the Seventeenth Judicial Circuit. To the extent that the Seventeenth Circuit's Response and the Pfeiflers' Response appear to "throw down the gauntlet" on this issue, SBHD withdraws from the fray. Either the current use of senior judges is as good as it gets, or it is not. If it can be improved, everyone profits. If it cannot be improved, or if SBHD has no right to ask that it be improved, then that is all there is to say on the subject. To the extent SBHD believes that the Senior Judges' Docket is reserved for complex civil cases projected to take more than two-and-one-half weeks, however, that belief is based on a statement of the administrative judge (A3; A10-2).

Third, to the extent SBHD is incorrect in any of its statements, or inaccurate, that is also no reason for war in this case. SBHD accepts any factual statements made

by the Seventeenth Circuit as an accurate portrayal of the current practice regarding use of the senior judges.

Fourth, while SBHD understands why the Seventeenth Circuit must attempt to protect its current practices, SBHD does not understand why the Pfeiflers are so vigilant. One would assume that plaintiffs, in particular, would be eager to see their cases advanced on the judicial calendars and tried in a short time after a notice to set cause for trial is filed, and that is not currently happening with complex cases in the Seventeenth Circuit.

Fifth, if the Seventeenth Circuit and the Pfeiflers are correct that SBHD lacks standing to raise this issue, or has waived its right to waive this issue, or was untimely in raising this issue, all relevant facts are before the Court to rule on those challenges. The Senior Judges' Docket should nevertheless be reviewed, however, and the Court has the inherent power to accomplish that goal. While it is unlikely that any changes will be made in time to assist SBHD in this case, they may assist other litigants in these types of cases in the future.



## **II. SENIOR JUDGES SHOULD BE ASSIGNED TO ALL AREAS OF CIVIL LITIGATION.**

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Contrary to what appears to be the understanding of the Seventeenth Circuit and the Pfeiflers, SBHD never argued that the establishment of a Senior Judges' Docket was unconstitutional, only that its current use is unconstitutional. SBHD suggests, again, that the use of senior judges in the Seventeenth Circuit be broadened to include all types of cases. This would better comport with this Court's guidelines and would allow complex long-trial cases to be tried on a more timely basis.

**CONCLUSION**

For the foregoing reasons, Petitioners Khurshid Khan, M.D., EMSA South Broward, Inc., and South Broward Hospital District d/b/a Memorial Regional Hospital respectfully request that the Court issue a writ of prohibition to the Circuit Court of the Seventeenth Judicial Circuit in and for Broward County, Florida, prohibiting further use of senior judges in a manner that denies access to courts to Petitioners and others similarly situated.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

WE HEREBY CERTIFY that a true and correct copy of the above and foregoing was furnished by U.S. Mail to the persons on the attached Service List, this \_\_\_ day of December, 2001.

Respectfully submitted,

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