

# Supreme Court of Florida

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No. SC04-974

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**BRENT D. KLEIN, et ux.,**  
Appellants,

vs.

**JOEL W. ROBBINS, etc.,**  
Appellee.

[July 6, 2006]

PER CURIAM.

We have on appeal Klein v. Robbins, 873 So. 2d 593 (Fla. 3d DCA 2004), in which the Third District Court of Appeal cited as controlling authority its decision in Sunset Harbour North Condominium Ass'n v. Robbins, 837 So. 2d 1181 (Fla. 3d DCA 2003) (declaring unconstitutional section 192.042, Florida Statutes (1997)), rev'd, 914 So. 2d 925 (Fla. 2005). At the time the Third District Court of Appeal issued its decision in Klein, Sunset Harbour was pending review in this Court. We have jurisdiction. See art. V, § 3(b)(1); see also Smith v. Welton, 729 So. 2d 371 (Fla. 1999).

On the authority of our decision in Sunset Harbour Condominium Ass'n v. Robbins, 914 So. 2d 925 (Fla. 2005), the decision under review is reversed, and this matter is remanded to the Third District Court of Appeal for reconsideration upon application of this Court's decision in Sunset Harbour.

It is so ordered.

LEWIS, C.J., and WELLS, ANSTEAD, PARIENTE, QUINCE, CANTERO, and BELL, JJ., concur.

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

An Appeal from the District Court of Appeal - Statutory or Constitutional Invalidity

Third District - Case No. 3D03-7517

(Dade County)

Peter J. Leavy and Thomas Roy Spencer of Spencer and Klein, P.A., Coral Gables, Florida,

for Appellants

Robert A. Ginsburg, Miami-Dade County Attorney and Thomas W. Logue, Assistant County Attorney, Miami, Florida,

for Appellees