

Supreme Court of Florida

No. SC10-1196

MARK DAVID KANAREK, M.D., et al.,
Petitioners,

vs.

JOSEPH SULLIVAN, etc.,
Respondent.

[June 2, 2011]

PER CURIAM.

We have for review Sullivan v. Kanarek, 34 So. 3d 808 (Fla. 2d DCA 2010), in which the Second District Court of Appeal cited as authority its decision in City of Tampa v. Companioni, 26 So. 3d 598 (Fla. 2d DCA 2009), quashed, 51 So. 3d 452 (Fla. 2010). At the time the Second District issued its decision in Kanarek, Companioni was pending review in this Court. We have jurisdiction. See art. V, § 3(b)(3), Fla. Const.; Jollie v. State, 405 So. 2d 418 (Fla. 1981).

We stayed proceedings in this case pending our disposition of Companioni v. City of Tampa, 51 So. 3d 452 (Fla. 2010) (quashing the Second District's Companioni decision). We then issued an order directing respondent in

the present case to show cause why we should not accept jurisdiction, quash the Second District's Kanarek decision, and remand for reconsideration in light of our decision in Companioni. Upon consideration of respondent's response, and petitioner's reply thereto, we have determined to so proceed.

We accordingly accept jurisdiction and grant the petition for review in the present case. The decision under review is quashed, and this matter is remanded to the Second District for reconsideration in light of this Court's decision in Companioni.

It is so ordered.

CANADY, C.J., and PARIENTE, LEWIS, QUINCE, POLSTON, LABARGA,
and PERRY, JJ., concur.

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 of Decisions

Second District - Case No. 2D08-6242

(Hillsborough County)

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for Petitioners

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for Respondent