

Supreme Court of Florida

No. SC11-665

PAUL POMFRET, et al.,
Petitioners,

vs.

JOHN ATKINSON,
Respondent.

[November 27, 2013]

PER CURIAM.

We have for review Pomfret v. Atkinson, 53 So. 3d 413 (Fla. 4th DCA 2011), in which the Fourth District Court of Appeal cited as authority its decision in DelMonico v. Traynor, 50 So. 3d 4 (Fla. 4th DCA 2010), quashed, 116 So. 3d 1205 (Fla. 2013). At the time that the Fourth District issued its decision in Pomfret, DelMonico 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 DelMonico v. Traynor, 116 So. 3d 1205, 1209 (Fla. 2013), in which we ultimately quashed the Fourth District's underlying DelMonico decision. We then issued an order

directing the Respondent in this case to show cause why this Court should not accept jurisdiction, summarily quash the Fourth District's underlying Pomfret decision, and remand for reconsideration in light of our decision in DelMonico.

Upon consideration of the response, in which the Respondent agrees with the disposition set forth in the order to show cause, we grant the petition for review, quash the Fourth District's decision in Pomfret, and remand this case to the Fourth District for further proceedings consistent with our decision in DelMonico.

It is so ordered.

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

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

Fourth District – Case No. 4D09-1708

(Palm Beach County)

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for Petitioners

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