

Supreme Court of Florida

No. SC12-2406

NADIA GARCON, et al.,
Petitioners,

vs.

FLORIDA AGENCY FOR HEALTH CARE ADMINISTRATION,
Respondent.

[November 6, 2014]

PER CURIAM.

We accepted jurisdiction to review the Third District Court of Appeal's decision in Garcon v. Agency for Health Care Administration, 96 So. 3d 472 (Fla. 3d DCA 2012), based on express and direct conflict with Smith v. Agency for Health Care Administration, 24 So. 3d 590 (Fla. 5th DCA 2009), and Roberts v. Albertson's, Inc., 119 So. 3d 457 (Fla. 4th DCA 2012), on the issue of whether a plaintiff should be afforded the opportunity to demonstrate that a Medicaid lien exceeds the amount recovered by the plaintiff for medical expenses.¹ See art. V,

1. After this Court accepted jurisdiction, the First District Court of Appeal decided Harrell v. State, 143 So. 3d 478 (Fla. 1st DCA 2014), in which the First District agreed with the decisions of the Fifth District Court of Appeal in Smith

§ 3(b)(3), Fla. Const. Prior to filing an answer brief in this case, the Respondent filed an unopposed motion to remand for further proceedings in light of the United States Supreme Court's decision in Wos v. E.M.A., 133 S. Ct. 1391 (2013), which both parties agree is now determinative of this case.

The Respondent concedes that, in light of Wos, the Third District's decision in Garcon is erroneous, and this case should be remanded to the circuit court to reconsider its decision. After a review of the filings and the parties' arguments, we grant the Respondent's unopposed motion and quash the Third District's decision. We direct that this case be remanded to the Third District to return the case to the circuit court for further proceedings consistent with the United States Supreme Court's decision in Wos.

It is so ordered.

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

Third District - Case No. 3D11-925

(Miami-Dade County)

and the Fourth District Court of Appeal in Roberts, thereby also creating conflict with the Third District's decision in Garcon.

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and Nichole Johnston Segal and Bard Daniel Rockenbach of Burlington &
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