

IN THE SUPREME COURT OF FLORIDA

Henry Diaz,

SC Case No.: **SC14-1916**

Petitioner,

DCA Case No.: 1D14-1676

vs.

Palmetto General Hospital and
Sedgwick CMS,

Respondents.

RESPONDENTS' JURISDICTIONAL BRIEF

On Review from the District Court of Appeal, First District,
State of Florida
from an opinion rendered on September 19, 2014

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STATEMENT OF THE CASE AND FACTS

Respondents agree with the Statement of the Case and Facts put forth by Petitioner within his Jurisdictional Brief.

SUMMARY OF THE ARGUMENT

The First District Court of Appeal upheld the constitutionality of Section 440.34(1), Fla. Stat. (2010), based upon its opinion in *Castellanos v. Next Door Co.*, 124 So.3d 392 (Fla. 1st DCA 2013). The Court's disposition passed upon the same question it certified in *Castellanos*, which was accepted and is currently under review by this court¹. As such, Respondent's request a stay pending the disposition of *Castellanos*. See *Louis P. Pfeffer, et. al. v. Labor Ready Southeast, Inc., et. al.*, Case No. SC14-1325.

Respondents' request affirmance of the JCC's Order and the denial of Petitioner's request for an award of reasonable attorney fees for the appeal in the First District and this Court.

¹*Castellanos v. Next Door Co.*, Case No. SC13-2082.

JURISDICTIONAL STATEMENT

Respondents agree that this Court may exercise discretionary "piggy-back" review in this case pursuant to *Jollie v. State*, 405 So.2d 418 (Fla. 1981).

ARGUMENT

THE DECISION OF THE DISTRICT COURT OF APPEAL PASSES ON THE SAME QUESTION CERTIFIED TO THIS COURT IN *Castellanos v. Next Door Co.*, 124 So.3d 392 (Fla. 1st DCA 2013), WHICH IS PENDING REVIEW IN THIS COURT.

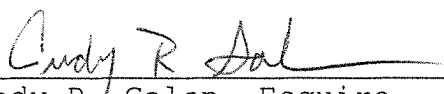
Respondents' agree that this Court has discretionary jurisdiction to review this case. See e.g., *Jollie v. State*, 405 So.2d at 420; Art. V, Section 3 (b)(4), Fla. Const.; Fla. R. App. P. 9.030(a)(2)(A)(v) and 9.120. Respondents' submit that a stay pending the disposition of *Castellanos v. Next Door Co.* is appropriate as both cases turn on the same certified question. See *Louis P. Pfeffer, et. al. v. Labor Ready Southeast, Inc., et. al.*, Case No. SC14-1325.

Respondents' request entry of an order affirming the JCC's order and denying Petitioner's request for remand and for an award of reasonable attorney fees for this appeal in the First District Court and this Court.

CONCLUSION

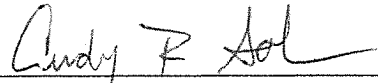
This Court has discretionary jurisdiction to review the decision of the JCC. This Court, however, should issue a stay pending the disposition of *Castellanos v. Next Door Co.*, as both cases turn on the same certified question.

Respectfully submitted,

/s/ 
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CERTIFICATE OF SERVICE

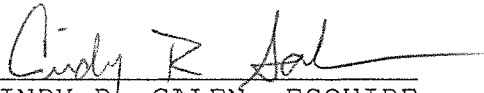
I HEREBY CERTIFY that the original of the foregoing Respondents' Jurisdictional Brief has been furnished via U.S. or electronic mail on this 3rd day of October 2014 to: Co-counsel for Petitioner, Kimberly A. Hill, Esquire, 821 SE 7th Street, Fort Lauderdale, FL 33301 at kimberlyhillappellatelaw@gmail.com and Martha D. Fornaris, Esquire, 65 Almeria Avenue, Coral Gables, FL 33134 at VValle@fornaris.com; FDiaz@fornaris.com; fornaris@fornaris.com and Vanessa Lipsky, Esquire, Co-counsel for Respondents, Eraclides, Gelman, Hall, Indek, Goodman & Waters, LLC, 2875 NE 191st Street, Suite 802, Aventura, FL 33180 at vlipsky@eraclides.com.



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CERTIFICATE OF COMPLIANCE

I, the undersigned Attorney, hereby certify that this brief complies with the font requirements of Rule 9.210(a)(2) of the Florida Rules of Appellate Procedure. The brief is typed in Courier New 12-point font.


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