

# Supreme Court of Florida

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No. 78,783

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BEN B. HARRIMAN, M.D., et al.,

Petitioners,

vs.

VICKIE NEMETH, ETC., at al.,

Respondents.

[March 18, 1993]

PER CURIAM.

We have for review Nemeth v. Harriman, 586 So. 2d 72, 73-74 (Fla. 2d DCA 1991), in which the Second District Court of Appeal relied on the Third District's decision in Lloyd ex rel. Lloyd v. North Broward Hospital District, 570 So. 2d 984 (Fla. 3d DCA 1990).<sup>1</sup> We recently quashed the portion of Lloyd relied on

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<sup>1</sup> We have jurisdiction pursuant to article V, section 3(b)(4) of the Florida Constitution.

by the Second District. Kush v. Lloyd, 17 Fla. L. Weekly S739 (Dec. 3, 1992). Accordingly, we quash the decision below to the extent it is inconsistent with our decision in Kush, and remand for reconsideration in light thereof.

It is so ordered.

OVERTON, SHAW, GRIMES and HARDING, JJ., concur.

MCDONALD, J., concurs with an opinion.

BARKETT, C.J., dissents with an opinion, in which KOGAN, J., concurs,

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

McDONALD, J., concurring.

I concur. It may be that four years is too short a time for a statute of repose and the legislature may wish to extend the repose period. I believe, however, that we properly construed the existing statute in Rush v. Lloyd, 17 Fla. L. Weekly S739 (Dec. 3, 1992).

BARKETT, C.J., dissenting.

I would approve the decision of the court below based on my opinion in Kush v. Lloyd, 17 Fla. L. Weekly 5739 (Dec. 3, 1992) (Barkett, C.J., concurring in part, dissenting in part).

KOGAN, J., concurs,

Application for Review of the Decision of the District Court of  
Appeal - Certified Great Public Importance

Second District - Case No. 90-03341

(Pinellas County)

Robert M. Klein and Philip D. Pasrish of Stephens, Lynn, Klein &  
McNicholas, P.A., Miami, Florida,

for Petitioners

Law Offices of Leonard M. Vincenti, P.A., Clearwater, Florida;  
and Joel D. Eaton of Podhurst, Orseck, Josefsberg, Eaton, Meadow,  
Olin & Perwin, P.A., Miami, Florida,

for Respondents

Marguerite H. Davis and Paul R. Ezataff of Katz, Kutter, Haigler,  
Alderman, Davis, Marks & Rutledge, P.A., Tallahassee, Florida,

Amicus Curiae for The Florida Defense Lawyers Association