

**IN THE FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA**

**NASIM S.KHAN, M.D.; LADIES
FIRST: COASTAL WOMEN'S
HEALTHCARE,**

Petitioners,

**Case No. 10-2935
L.T. Case No. 2009-CA 002824**

v.

**PHYLLIS LEGG, individually
AND CHRIS LEGG, her husband,
BAPTIST HOSPITAL, INC; MARY
JANE BENSON, M.D., and MARY
JANE BENSON, M.D., P.A.,**

Respondents.

RESPONSE TO PETITION FOR WRIT OF CERTIORARI

Ronald S. Gilbert, Esquire

Fla. Bar No. 0375421

Vanessa L. Brice, Esquire

FLA. Bar No. 0076434

Colling Gilbert Wright & Carter

The Florida Firm

801 N. Orange Ave Suite 830

Orlando, Florida 32801

407-712-7300- Telephone

407-712-7301- Facsimile

Rgilbert@thefloridafirm.com

Attorney for the Respondent

TABLE OF CONTENTS

Table of Authorities	ii
I. CERTIORARI REVIEW SHOULD BE DECLINED.....	Pg 1-3
II. ARGUMENT.....	Pg 3-13
III. CONCLUSION.....	Pg 14-15
CERTIFICATE OF SERVICE.....	Pg 16
CERTIFICATE OF COMPLIANCE.....	Pg 17

TABLE OF AUTHORITIES

Cases

Abbey v. Patrick, 16 So. 3d 1051 (Fla.1 st DCA 2009).....	Pg 2
Archer v. Maddox, 645 So. 2d 544(Fla. 1 st DCA 1994).....	Pg 10
Baptist Medical Center v. Rhodin ,---So. 3d--, 2010 WL29795380 (Fla. 1 st DCA July 16, 2010).....	Pg 1, 2,
Bratt v. Laskas, 845 So. 2d 964 (Fla. 4 th DCA 2003).....	Pg 9
Brooks v. Owen, 97 So. 2d 693 (Fla. 1057).....	Pg 3
Fort Walton Beach Med Ctr v. Dingler, 697 So. 2d 575 (Fla. 1 st DCA 1997).....	Pg 10
Fuentes v. Spirer, 766 So. 2d 1081 (Fla. 3 rd DCA 2000).....	Pg 9
Holden v. Bober MD, 35 Fla. L. Weekly D1405 (Fla. 2 nd DCA June 23, 2010).....	Pg 12
Kilgore v. Bird, 6 So. 2d 541 (Fla. 142).....	Pg 3
Kukral v. Mekras, 679 So 2d 278 (Fla. 1996).....	Pg 1, 10, 13, 14
Lakeland Reg'l Med Ctr v. Allen, 944 So. 2d 541, 543 (Fla. 2 nd DCA 2009).....	Pg 1
Loadholtz v. Andrews, 855 So. 2d 1241 (Fla. 1 st DCA 2003).....	Pg 8
Meyer v. Caruso, 731 So. 2d 118 (Fla. 4 th DCA 1999).....	Pg 9
Michael v. Med Staffing Network Inc., 947 So. 2d 614 (Fla.3 rd DCA 2007).....	Pg 10
Myron v. S. Broward Hosp Dist, 703 So. 2d 527 (Fla. 4 th DCA 1997).....	Pg 8

Oken v. Williams, 23 So. 3d 140 (Fla. 1 st DCA 2009).....	Pg 1, 5, 6, 12
Ortega v. Silva, 712 So. 2d 1148 (Fla. 4 th DCA 1998).....	Pg 2
Padgett v. Sims., 701 So. 2d 357 (Fla. 1 st DCA 1997).....	Pg 9
Patry v. Capps, 633 So. 2d 9 (Fla. 1994).....	Pg 10
Parkway Bank v. Fort Myers Armature Works, 658 So. 2d 646, 649 (Fla.2 nd DCA 1995).....	Pg 1
Simeon, Inc v. Cox, 671 So. 2d 158, 160 (Fla. 1996).....	Pg 1
St. Mary’s Hospital v. Bell, 785 So. 2d 1261 (Fla. 4 th DCA 2001)...	Pg 2
Wood v. Virgo, 3 So. 3d 430 (Fla. 2 nd DCA2007).....	Pg 13
Wright v. Schulte, 441 So. 2d 660 (Fla. 2 nd DCA 1983).....	Pg 9

Statutes

Chapter 766, F.S.....	Pg 1, 2, 5, 14
Section 766. 102.....	Pg 4, 7, 11, 13
Section 766.201.....	Pg 14
Section 766. 202.....	Pg 3, 13
Section 766. 203.....	Pg 3, 7, 10, 13
Section 766.206.....	Pg 13

