

Supreme Court of Florida

CASE NO.: SC14-80

Lower Tribunal No(s): 1D12-3912;
10-021122GCC

MIRTA GROSECLOSE

vs.

APTIVM ONCOLOGY, ECT. ET
AL.

APTIVM ONCOLOGY, ETC., ET AL.

vs.

MIRTA GROSECLOSE

RESPONSE TO ORDER TO SHOW CAUSE

Aptium Oncology, ect., et al., the employer/respondent, hereby files this its Response to the Order to Show Cause entered on June 29, 2016. In its Order to Show Cause, this Court is asking why in light of the opinion in *Westphal v. City of St. Petersburg*, 2016 WL 3191086 (Fla. Jun. 9, 2016), this Court should not accept jurisdiction, summarily quash the decision from the First District Court of Appeal, and remand for reconsideration in light of its decision in *Westphal*.

On October 23, 2013, the First District Court of Appeal reversed and remanded the Final Order from the Judge of Compensation Claims on the basis that “the parties nor JCC had the benefit of Westphal v. City of St. Petersburg/St. Petersburg Risk Management and State of Florida, 38 Fla. L. Weekly D2029 (Fla. 1st DCA Sept. 23, 2013). The First District Court of Appeal subsequently via an Order dated December 12, 2013 withheld its mandate in the case pending the disposition in the case of *Westphal* which was currently pending before this Court. Additionally, the First District Court of Appeal certified in its Order that “our reversal in the instant case passes upon the same question we certified in Westphal.”

In light of the Orders from the First District Court of Appeal of October 23, 2013 and

RECEIVED, 07/22/2016 02:58:36 PM, Clerk, Supreme Court

December 12, 2013 as well as the recent Opinion from this Court in *Westphal v. City of St. Petersburg*, 2016 WL 3191086 (Fla. Jun. 9, 2016), the proper course of action is the accept jurisdiction, quash the decision from the First District Court of Appeal and remand for reconsideration in light of the decision in *Westphal*.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent via email this 22 day of July, 2016 to Robert J. Fiore, Esq., robert@robertfiorelaw.com, Bram J. Gechtman, Esq., bjg@gcflalaw.com, and Marjorie Graham, mgg@appeal.com.

NERET, FINLAY & NGUYEN, LLP.
2100 Coral Way, Suite 400
Miami, FL 33145
Tel: (305) 423-3820/-Fax: (305) 423-3821

By _____

EDUARDO E. NERET, ESQ.
FL Bar #: 0967882
eneret@nfnlaw.com
JAVIER A. FINLAY, ESQ.
FL Bar #: 063278
jfinlay@nfnlaw.com
Attorneys for Petitioner(s)