

IN THE DISTRICT COURT OF APPEAL OF THE
STATE OF FLORIDA, SECOND DISTRICT

CASE NO.: 2D21-0891

UNIFIRST CORPORATION,)
)
 Appellant,)
)
 v.)
)
 JOEY'S NEW YORK PIZZA, LLC)
 d/b/a Joey's new York Pizza II, LLC)
 d/b/a Joey's New York Pizza III, LLC)
)
 Appellee.)
)
)
 _____)

NOTICE OF APPEAL

NOTICE IS GIVEN that UNIFIRST CORPORATION, Appellant,
appeals to the Supreme Court of Florida, the order of this court rendered
February 4, 2022 (December 22, 2021), a copy of which is attached. The
nature of the order is a final order certifying conflict.

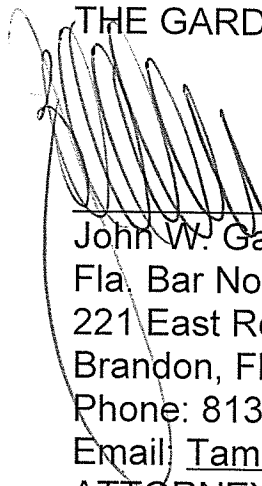
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing document has been furnished
to Shayamie Dixit, Esquire and Robert L. Vessell, Esquire of the Dixit Law

[continued next page]

Firm, sdixit@dixitlaw.com and rvessel@dixitlaw.com, 3030 North Rocky Point Drive West, Suite 150, Tampa, Florida 33607 by email on February 8, 2022.

THE GARDNER LAW FIRM



John W. Gardner, Esquire
Fla. Bar No.: 745219
221 East Robertson Street
Brandon, Florida 33511
Phone: 813/651-0055
Email: Tampahokie@aol.com
ATTORNEYS FOR APPELLANT

DISTRICT COURT OF APPEAL OF FLORIDA
SECOND DISTRICT

UNIFIRST CORPORATION,

Appellant,

v.

JOEY'S NEW YORK PIZZA, LLC, d/b/a JOEY'S NEW YORK PIZZA
I I LLC, d/b/a JOEY'S NEW YORK PIZZA I I I LLC,

Appellee.

No. 2D21-891

December 22, 2021

Appeal from the Circuit Court for Pasco County; Kimberly Sharpe
Byrd, Judge.

John W. Gardner of The Gardner Law Firm, Brandon, for Appellant.

Shyamie Dixit and Robert L. Vessel of Dixit Law Firm, Tampa, for
Appellee.

PER CURIAM.

Unifirst Corporation appeals the trial court's order vacating an
arbitration award in its favor and ordering the parties to renewed
arbitration. This court lacks jurisdiction because the order on

appeal is a nonfinal, nonappealable order. See *Loewenstein, Inc. v. Draheim*, 898 So. 2d 1129, 1130 (Fla. 4th DCA 2005); *Zabawa v. Penna*, 868 So. 2d 1292, 1292 (Fla. 5th DCA 2004).

Unifirst urges this court to treat its appeal as a petition for writ of certiorari based on *Felger v. Mock*, 65 So. 3d 625, 628 (Fla. 1st DCA 2011), and *Heart Surgery Center v. Thomas J. Bixler II, M.D., P.A.*, 128 So. 3d 169, 172–73 (Fla. 1st DCA 2013). We decline to treat the appeal as a petition for writ of certiorari because Unifirst cannot demonstrate irreparable harm that cannot be remedied on direct appeal. See *Miami-Dade County v. King*, 176 So. 3d 373, 374 (Fla. 3d DCA 2015); *Loewenstein*, 898 So. 2d at 1130; *Zabawa*, 868 So. 2d at 1293.

We certify conflict with the First District's decisions in *Felger*, *Heart Surgery Center*, and *Amalgamated Transit Union, Local 1579 v. City of Gainesville*, 264 So. 3d 375, 377–79 (Fla. 1st DCA 2019) (reaffirming its holding in *Felger* and certifying conflict with *King*, *Loewenstein*, and *Zabawa*).

Dismissed; conflict certified.

SILBERMAN, LaROSE, and ATKINSON, JJ., Concur.

Opinion subject to revision prior to official publication.

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
SECOND DISTRICT, POST OFFICE BOX 327, LAKELAND, FL 33802-0327

February 04, 2022

CASE NO.: 2D21-0891
L.T. No.: 2020-CA-1986

UNIFIRST CORPORATION

v. JOEY'S NEW YORK PIZZA LLC,
D/B/A JOEY'S NEW YORK PIZZA I I
LLC, D/B/A JOEY'S NEW YORK
PIZZA I I I LLC

Appellant / Petitioner(s),

Appellee / Respondent(s).

BY ORDER OF THE COURT:

Appellant's motion for rehearing is denied.


I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

Served:

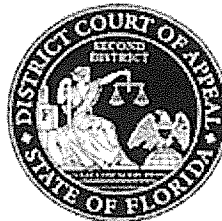
JOHN W. GARDNER, ESQ.
SARA K. GROVER, ESQ.
NIKKI ALVAREZ-SOWLES, CLERK

ROBERT L. VESSEL, ESQ.
SHYAMIE DIXIT, ESQ.

mep



Mary Elizabeth Kuenzel
Clerk



SECOND DISTRICT COURT OF APPEAL OF FLORIDA
P.O. BOX 327
LAKELAND, FLORIDA 33802-0327
(863) 499-2290

February 8, 2022

Re:

Unifirst Corporation
v.
Joey's New York Pizza LLC, D/B/A Joey's New York Pizza II LLC, D/B/A Joey's
New York Pizza III
Appeal No.: 2D21-891
Trial Court No.: 2020-CA-1986
Trial Court Judge:

Florida Supreme Court
Attn: Clerk's Office

Attached is a certified copy of the notice of appeal to the Supreme Court, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. Attached also is this Court's opinion or decision relevant to this case.

The filing fee prescribed by Section 25.241(2)(a), Florida Statutes, was received by this court and is attached.

The filing fee prescribed by Section 25.241(2)(a), Florida Statutes, was not received by this court.

Petitioner/Appellant has been previously determined insolvent by the circuit court or our court in the underlying case.

Petitioner/Appellant has already filed, and this court has granted, petitioner/appellant's motion to proceed without payment of costs in this case.

No filing fee is required because:

- Summary Appeal, pursuant to rule 9.141
- From the Unemployment Appeals Commission
- A Habeas Corpus proceeding
- A Juvenile case
- Other

In criminal cases, the notice of appeal was filed in the lower tribunal on _____.

If there are any questions regarding this matter, please do not hesitate to contact this office.

Sincerely,

Mary Elizabeth Kuenzel
Clerk

By: Joshua Dannelley

MK:jd

cc (without attachments):

Sara K. Grover, Esq.
John W. Gardner, Esq.

Shyamie Dixit, Esq.
Robert L. Vessel, Esq.