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University of Miami v. Juanita Ruiz

SC05-2164

>> LADIES AND GENTLEMEN, THE
FLORIDA SUPREME COURT.

PLEASE BE SEATED.

>> GOOD MORNING.

OUR NEXT CASE IS UNIVERSITY
OF MIAMI VERSUS RUIZ.

MR. STARK, READY TO PROCEED?

>> THANK YOU.

MAY IT PLEASE THE COURT.

STEVEN STARK ON BEHALF OF
PETITIONER, THE UNIVERSITY
OF MIAMI DOING BUSINESS OF
THE UNIVERSITY OF MY AM A MY
SCHOOL OF MEDICINE.

A QUESTION TO BE CERTIFIED

OF DIRECT AN EXPRESS

CONFLICT BETWEEN OUR

DECISION AS THE 3rd DISTRICT

COURT OF APPEALS AND THE

RUIZ CASE AND THE 5th CASE

IN ALEX DAERN.

MY PORTION OF THE APPEAL

DEALS WITH THE ISSUE OF THE

FINDINGS BY THE HEARING

OFFICER AS WELL AS THE

DISTRICT COURT OF APPEAL

THAT THE PHYSICIANS THAT

PROVIDE THE DELIVERY

SERVICES AND THE DELIVERED

THE BABY MRS. RUIZ'S BABY IN

THIS CASE FAILED TO PROVIDE

NOTICE SUCH THAT THEY WERE

NOT ENTITLED TO THE

EXCLUSIVE REMEDY OF THE

STATUTE.

>> WELL, THEN, LET'S NUT IN

SORT OF PERSPECTIVE.

WE HAVE A STATUTE.

>> YES, SIR.

>> THAT REQUIRES CERTAIN

NOTIFICATIONS TO BE GIVE TON

PATIENTS THAT WOULD THEN

PROVIDE IN THE EVENT THERE

IS A MISHAP IN THE BIRTH

THAT WOULD ALLOW THE

INDIVIDUALS TO RECOVER WITHOUT REGARD TO WHETHER ANYBODY DID ANYTHING WRONG, BUT IF YOU DON'T GIVE THE NOTICE, AND IT HAS SOME CRITERIA INTO THE STATUTE, THEN THE FAMILY OF THAT CHILD WOULD HAVE A LEGAL ACTION OR A BECAUSE OF ACTION.

S THAT YOU THE CONTEXT WE'RE IN?

>> THAT IS THE CONTEXT WE ARE IN.

>> AND NOW, CAN YOU HAVE A DIFFERENT CIRCUMSTANCE? IT SEEMS TO ME THAT THIS CASE BECAUSE OF THE NATURE OF THE STRUCTURE MAYBE A LITTLE DIFFERENT THAN MOST BECAUSE WE HAVE A UNIVERSITY CLINIC KIND OF A SETTING AND DOCTORS ARE NOT NECESSARILY ASSIGNED TO PATIENT AS THEY WOULD BE IN A PRIVATE OFFICE.

DOES THAT ALTER WHAT WE ARE LOOKING AT OR THE APPLICATION OF THE STATUTE AT ALL HERE?

>> WE CERTAINLY ARGUED IT DUNDZ ARE THE CIRCUMSTANCES AS PRESENTED HERE.

THIS IS ACTUALLY NOT A UNIVERSITY CLINIC, BUT A PUBLIC HOSPITAL WITH THE PUBLIC HEALTH TRUST.

>> THE UNIVERSITY OF MIAMI PROVIDES --

>> THE UNIVERSITY MIAMI CONTRACTS WITH THE TRUST'S PERMITTED PHYSICIANS TO CONTRACT WITH THE HOSPITAL TO PROVIDE THE SERVICES THIS CHT THOSE DOCTORS ACTUALLY HAVE AN INDEPENDENT CONTRACT WITH THE PUBLIC HEALTH TRUSTS OF DADE COUNTY THAT WAS ESTABLISHED PURSUE ANT TO CHAPTER 154 TO PROVIDE SUPERVISION OF THE RESIDENTS PROVIDING CARE AT THESE FACILITIES.

>> YOU OF BUT YOUR ARGUMENT

IS SORT OF, IT IS ALMOST TO BE, IT IS NOT THAT IT IS SIMPLE AND APPEAL BECAUSE IT IS SIMPLE IS THE STATUTE SAYS OR AND/OR MEANS OR.

>> WELL, YES, MY ARGUMENT -->> IS IT MORE SOPHISTICATED?>> WELL, THAT IS THE FIRST PART OF IT.

THEN, THERE IS ONE OTHER, I THINK, VERY SIMPLE PART OF IT.

THE STATUTE DOES SAY IT IS EITHER OR.

THIS COURT, THE 3rd DISTRICT COURT OF APPEAL RECOGNIZED IT IS TWO INDEPENDENT EXCEPTIONS TO THE NOTICE REPORT.

>> HOW ABOUT A LIBRARY BECAUSE YOU DIDN'T GET TO THE PART WHERE YOU ARE RELYING ON AN EXCEPTION OR AN EXCUSE.

AND SO LET'S HAVE CONTEXT.

>> THE EXCEPTION HERE IS THE EMERGENCY EXCEPTION.

AND THE REASON WHY WE ARE WE SUGGESTED THE EMERGENCY.

IN FACT, THERE IS NO QUESTION THAT THE EMERGENCY EXCEPTION DOES APPLY.

BUT OF BY DEFINITION.

THE EMERGENCY EXCEPTION IS INVOKED WITHIN THE PATIENT COMES IN IN LAB ARE AND DELIVERY ESSENTIALLY.

>> SO YOU HAD A CLINIC THAT INITIALLY AS THE MOTHER CAME IN DID RECEIVE SOMETHING, BUT THEN, WHEN SHE CAME IN FOR THE DELIVERY, SHE DID NOT RECEIVE SOMETHING ELSE WHEN HER FIRST CONTACT WITH THE DOCTOR?

>> THAT IS CORRECT.

>> THAT IS THE CORE REG.

>> THAT IS THE LAST POSITION, THAT IF THE CONCLUSION IS THAT THE PHYSICIANS HAD TO GIVE NOTICE AT THE TIME WHEN SHE ARRIVED FOR THE DELIVERY THAT THAT NOTICE THERE IS AN

EXCEPTION BECAUSE OF THE
EMERGENCY SERVICES.

>> I GUESS MY QUESTION THEN
IS BECAUSE WE WOULD BE
INTERPRETING THE STATUTE
GENERALLY IF IF ANOTHER
SITUATION SOMEBODY MANY
FORMAL SITUATION, SOMEBODY
SEEING A PHYSICIAN FOR
MONTHS BEFORE HAS
ESTABLISHED PATIENT
PHYSICIAN RELATIONSHIPS NO
NOTICE IS GIVEN THEN THAT
WOMAN GOES INTO EMERGENCY
CIRCUMSTANCE, CAN THE DOCTOR,
IN THAT SITUATION, RELY ON
THE EMERGENCY EXCEPTION EVEN
THOUGH THEY HAD REASONABLE
OPPORTUNITY?

>> NO.

>> WELL, THEN, BUT THE
STATUTE SAYS OR.

>> THE STATUTE DOES SAY OR,
BUT THE STATUTE ALSO TALKS
ABOUT THIS COURT IN THE CASE
WAS THE FIRST THAT ACTUALLY
ADOPTED THE NOTICES NOT
REQUIRED IF IT IS NO
STANDARD.

WHAT THE LEGISLATURE DID WAS
NOT ONLY TAKE THAT LAN GAIN
AND PUT NIGHT THE STATUTE,
BUT ALSO, ADDRESSED THE
QUESTION THAT I THINK AROSE
IN THE CASE, WHICH IS
ACTUALLY VERY SIMILAR TO OUR
CASE.

AND THAT QUESTION IN THAT
CASE WAS, WELL, WHAT IF IT
IS AN EMERGENCY
CIRCUMSTANCE?

WHAT IF THE WOMAN COMES IN
LABOR AND DELIVERY AN UPPER
IM PAL ALSO, A UNDER FLORIDA
LAW, UPPER GOOD MEDICAL
JUDGMENT CAN NOT TRANSFER
THAT PATIENT ANYWHERE.
THEY ARE GOING TO DELIVER,
YOU HAVE TO PROVIDE THE
SERVICES, NOTICE IMPRACTICAL
AS A MATTER OF LAW AT THAT
POINT.

AND THAT ANSWERS THAT
PARTICULAR QUESTION.

>> I JUST WANT TO -- I AM NOT SURE YOU HAVE ANSWERED THE QUESTION, HOW ARE YOU THEN ASKING US TO CONTRUE THE STATUTE? ARE YOU SAYING IT IS CASE SPECIFIC? THAT YOU LOOK AT WHETHER THERE IS TRULY A REASONABLE OPPORTUNITY BEFOREHAND OR DO YOU, DO YOU READ THE TWO REQUIREMENTS TOGETHER? EXPLAIN THAT TO ME.

>> WELL, I DO NOT BELIEVE THAT YOU NEED TO MAKE THE OR A CONJUNCTIVE. THAT IS EVENTUALLY WHAT THE 3rd DISTRICT AND THE HEARING OFFICER DID IN THE CASE. BECAUSE THE CONCLUSION WAS, YES, THERE IS AN EMERGENCY CIRCUMSTANCE, BUT IF, IN FACT, IT WAS PRACTICALABLE FOR YOU TO GIVE NOTICE PREVIOUSLY, THEN WE FIND THAT THE FACT THAT IT IS AN EMERGENCY CIRCUMSTANCE DOESN'T APPLY?

>> I DON'T UNDERSTAND, THEN, HOW DOES THAT, IF THAT IS THE CONCLUSION THEN WHY IS, FOR THE DOCTOR THAT HAS HAD THE LONGSTANDING RELATIONSHIP WITHIN THE EMERGENCY OCCURRED AT THE END, DOESN'T IT TALK, THE STATUTE DOESN'T TALK ABOUT THE TIMING.

I THINK IF YOU LOOK AT THE ARGUMENT WE MADE IN OUR BRIEF.

>> LOOK AT THE STATUTE, OKAY? WHAT THE STATUTE SPECIFICALLY SAYS, EACH PARTICIPATING PHYSICIAN SHALL PROVIDE NOTICE TO THE PATIENT.

LET'S LOOK AT THE WORDS. I DON'T HAVE A PATIENT IF I AM A PHYSICIAN, IF, THIS IS WHAT THE 3rd DISTRICT SAID IN OUR CASE, THERE WAS THE ABSENT OF A PRIOR

PROFESSIONAL RELATIONSHIP
PREEN THE UNIVERSITY
PHYSICIANS AND MISS RUIZ,
DESPITE THAT, THE COURT
CONCLUDED THAT THERE WAS
REASONABLE OPPORTUNITY TO
FURNISH NOTICE.

ABSOLUTELY NOT.

THE DEFINITION OF THE
STATUTE REQUIRES THAT THERE
BE A PATIENT-PHYSICIAN
RELATIONSHIP.

A PROVIDER-PHYSICIAN
RELATIONSHIP.

UNDER YOUR CIRCUMSTANCE, AT
THAT POINT AND TIME, WHEN
THAT RELATIONSHIP IS
ESTABLISHED, AND THAT DOCTOR
WHO DOESN'T HAVE TO ACCEPT
THE PATIENT NECESSARILY
ACCEPT THAT PATIENT, THAT
PATIENT NOW SAYS THIS IS MY
POSITION AN BELIEVE ME, FOR
MEDICAID, MED CAID, OTHER
CAUSE, THAT PATIENT DOES
HAVE TO SAY, THIS US MY
PHYSICIAN, NO I IT FOR
CERTAIN BILLING
REQUIREMENTS.

>> YOUR SCENARIO.

THE DOCTORS THAT FACILITY
WOULD NEVER HAVE TO GIVE
NOTICE?

>> THAT IS NOT TRUE.

THERE MAY BE A CIRCUMSTANCE
WHERE THEY WOULD HAVE TO.

>> ALL RIGHT.

LET'S TAKE THE CIRCUMSTANCE
HERE.

AND, WELL, LET'S TALK ABOUT
THE HOSPITAL IN GENERAL.

THE DOCTORS THERE HAVE
PRIVATE PATIENTS OTHER THAN
THOSE THAT COME INTO THE
HOSPITAL FOR DELIVERY?

YES.

>> THEY HAVE TO HAVE THEIR
OWN PRACTICE OUTSIDE.

>> AS PART OF A HOSPITAL, DO
THEY HAVE PATIENTS?

>> NO, THEY HAVE RENTED
SPACE AT THAT TIME FOR SOME
PRIVATE OFFICE, BUT NO
LONGER HAVE, BUT THEY, THEY

DID NOT HAVE -- THOSE
DOCTORS WHO DO THE
DELIVERIES AT THIS HOSPITAL
AND DELIVER PEOPLE WHO ARE
NOT THEIR PRIVATE PATIENTS
OUTSIDE OF THE HOSPITAL
WOULD FALL INTO THIS
EMERGENCY SITUATION AND
NEVER HAVE TO GIVE NOTICE
BECAUSE YOU JUST SAID AS I
UNDERSTOOD THE ARGUMENT.
WHEN YOU DOM THE HOSPITAL IN
LAB OAR, IT IS AN EMERGENCY
SITUATION.

>> THAT IS TRUE.

BY DEFINITION.

>> SO ANY DOCTOR, THAT FA FA
LITTLE TY WHO IS SEEING
PATIENTS THAT ARE NOT PAIR
PATIENT IN THEIR PRIVATE
PRACTICE WOULD NEVER HAVE TO
GIVE NIC NOTICE UNDER YOUR
SCENARIO?

>> UNLESS, OF COURSE,,
UNLESS, OF COURSE, THEY HAD
ACTUALLY SEEN, TREATED,
EVALUATED THAT PATIENT IN A
WAY -- I JUST MADE THE
PERIMETERS.

>> OKAY.

IF THE PERIMETERS NEVER SEE
THEM, YOUR ANSWER WOULD
CORRECT.

THEY WOULD NOT HAVE TO GIVE
NOTICE, ALTHOUGH, THERE ARE
CASES, THERE IS THE SUN LIFE
CASE IN WHICH THE COURT
CONCLUDE WHEN THEY DID GIVE
A NOTICE, THE HOSPITAL THAT
SAYS IT IS US AN OUR DOCTORS
AN NURSES, MIDWIFES, THEY
SAID THAT NOTICE WAS
SUFFICIENT.

OUR NOTICE HERE DIDN'T SAY
THAT.

WE HAD ARGUED IT SHOULD
APPLY, THE COURT SAID NO, IT
REALLY DOESN'T UNDER THE
CIRCUMSTANCES.

>> WASN'T THERE A SIMPLE WAY
TO HAVE DEALT WITH THIS.
THE HOSPITAL COULD HAVE, I
BELIEVE LATER PUT THAB BROW
CURE THIS NIC, A BROCHURE

LISTS OF THE DOCTORS AT THE HOSPITAL WHO IN FACT PARTICIPATE IN THAT PLAN?

>> THEY DON'T LIST THEM.

WHAT IT ACTUALLY SAYS AND I THINK IT SAID UNSUN LIFE ALSO THAT THIS INCLUDES NOTICE AS TO US AN ALL OF THE PARTICIPATING STAFF WHO ARE ALSO PARTICIPANTS IN NIKA.

THEY DO DO THAT.

NOW, THAT IS A HOSPITAL NOTICE THAT SEEMED TO BE SUFFICIENT FOR THE PHYSICIAN.

IT IS STILL A QUESTION OF HOW DO YOU IMPOSE, I SAY I AM INTO REBUTTAL TIME.

BUT IF CAN I ANSWER THE QUESTION.

HOW DO YOU IMPOSE UPON A PHYSICIAN?

A DUTY THAT PHYSICIAN, IT IS AN INDEPENDENT DUTY, ALL OF THE CASES SAY IT, TO NOTIFY A PATIENT OF THEIR PARTITION IS PASSION IN NIKA WHEN THEY HAVE NOT YET ESTABLISHED ANY RELATIONSHIP WITH THAT PATIENT SUCH THAT PERSON SUCH AS THEY WOULD EVEN BE DEEMED A PATIENT OF THEM SUCH THAT THEIR LEGAL DUTIES AS A PHYSICIAN.

YOU HAVE RECURRING PRACTICE; HOWEVER, SHOULDN'T THERE BE SOME OBLIGATION ON THE PART OF THE PHYSICIAN IN THEY WANT TO TAKE ADVANTAGE OF THIS PARTICULAR LAW?

YOU ASSUME THAT VIRTUALLY EVERY POSITION WOULD WANT TO TAKE ADVANTAGE TO THIS PARTICULAR LAW IF THERE IS RECURRING SITUATION, SHOULDN'T THERE BE SOME OBLIGATION ON THE PART OF THE PHYSICIAN TO DEAL WITH THAT?

THAT IS THAT IT IS NOT FAS THERE WAS AS SINGLE EMERGENCY, THAT MAY NEVER OCCUR AGAIN, IT IS WE ARE

REALLY TALKING ABOUT IS THAT THERE ARE A LOT 6:00 OF "EMERGENCY SITUATIONS" YET WE CAN SEE THAT PERHAPS NO EFFORT IS MADE EVEN THOUGH WE KNOW THIS IS GOING TO HAPPEN AGAIN TO DO THE BEST THAT WE COULD WITH REFERENCE TO NOTICE.

ISN'T THERE SOME OBLIGATION?

>> IFULLY A PERSPECTIVE BASIS, THAT MAY WELL BE TRUE, CERTAINLY IT IS WHAT IS BEING DONE NOW; HOWEVER NOT EVERY SINGLE QUOTE ON QUOTE UNIVERSITY FACULTY MEMBER -- NOT EVERY ATTENDING PHYSICIAN AT ANY OF THE HOSPITAL FACILITIES ARE UNIVERSITY FACULTY MEMBERS, WHAT YOU ARE EVENTUALLY SAYING THAT EVERYBODY EMPLOYED BY THE HOSPITAL OR THE UNIVERSITY OR BOTH OR, UP, OR SOME PENT PARTY OR PENT COMPANY HAS TO GIVE NOTICE THROUGH THE HOSPITAL, NOW, IF, IN FACT, THE HOSPITAL'S OPPORTUNITY TO GIVE NOTICE IS INPUTTEDED TO THE DOCTOR, THEN, IN THE CASE, THEN, WE SHOULD HAVE ALSO BEEN GIVEN THE BENEFIT OF THE RECEIPT OF THE NOTICE WHICH THEY STIPULATED TO, IN FACT, THIS PATIENT PACIFICALLY SAID, I BELIEVE THAT WHOEVER WAS ON CALL THAT DAY WOULD DELIVER MY BABY.

SHE DIDN'T -- SHE KNEW EXACTLY WHAT THE NOTICE REQUIRED.

UNLESS -- IF IT IS FOR DUE PROCESS PURPOSE, ACTUAL NOTICE OF THE INFORMATION IS SUFFICIENT TO COMPLY WITH THOSE PURPOSES AND IN THIS CASE, IT SHOULD BE ENOUGH. THERE MAY BE OTHER CASES AND OTHER CIRCUMSTANCES, I DON'T BELIEVE THE RECORD IN THE CASE DEVELOPS SUFFICIENTLY TO HAVE IMPOSED THE DUTY

UPON THESE INDEPENDENT
INDIVIDUAL PHYSICIANS
PARTICULARLY GIVEN THE
RAMIFICATIONS OF THE
CONCLUSION THAT THEY HAD THE
DUTY TO NOTIFY WHICH IS AT
THAT POINT, THEY HAD A
PHYSICIAN-PATIENT
RELATIONSHIP EVEN THOUGH
THEY NEVER MET THE PATIENT.
YOU ARE INTO YOUR REBUTTAL.
>> THANK YOU.

>> MAY IT PLEASE THE COURT,
I AM GEN RAL COUNSEL.
I AM HERE PRY AMLY TO TAKE
THE BASIC POSITION, DON'T
THROUGH THE ALEXANDER CASE
AUN ARE THE BUS BECAUSE WE
THINK THE ALEXANDER CASE IS
GOOD LAW.

THE ANSWER TO JUSTICE'S
QUESTION.

YOU ARE NOT GOING TO GET
EXCUSED FROM NOTICE IF YOU
HAD ANY KIND OF PROFESSIONAL
RELATIONSHIP AT ALL, PERIOD.

>> BUT UNDER THESE KIND, IT
SEEMS THIS IS THE WAY THEY
ARE STRUCTURED.

>> YEAH.

I NEVER HAVE A RELATIONSHIP
WITH ANY OF THEM THERE AND
SO WE STILL WANT TO TAKE
BENEFIT OF IT, SO I MEAN --

>> I AM NOT GOING IN THAT
PARTICULAR DIRECTION BECAUSE
THAT IS COUNSEL HERE.

WHAT I AM COMING FROM THAT
IS WE GOT THE TWO SEPARATE
AND DISTINCT EXCEPTIONS.

THERE ARE ISSUES OF
PRACTICALABILITY THAT HAVE
NOTHING TO DO WITH
EMERGENCIES.

I MEAN, A WOMAN COMES CAN IN
FROM AN AUTOMOBILE ACCIDENT
IN COMA.

AND IT IS NOT AN EMERGENCY
CIRCUMSTANCE, BUT YET GIVES
BIRTH AT THE LATER POINT AND
TIME.

MAYBE THAT IS AN EMERGENCY
BECAUSE THEY ARE IN COMA.
THIS THEY GO IN FOR, THEY GO

IN IN DISNEY WORLD AND FROM TALLAHASSEE, THEY GO IN BECAUSE THEY, THEY HAVE PAINS AND SO FORTH, BUT NOT REALLY IN A DELIVERY ISSUE, SOMEONE CALLS IN AN OB CALLS IN AND GIVES ADVICE OVER THE TELEPHONE.

WHEN THAT HAPPENS, THAT IS PROVIDING SERVICE, IT IS IMPRACTICAL TO GIVE NOTICE, BUT THE MOTHER-TO-BE IS NOT IN AN EMERGENCY SITUATION.

>> YOU ARE ARGUING, GENERAL COUNSEL FOR IQA, IT IS INTERESTED IN MAKE SHOO SURE THE INTENT OF THE STATE USE IS FULFILLED, THAT IS THAT IT WOULD BE PATIENTS HAVE MEANINGFUL NOTICE AND AN OPPORTUNITY TO CHOOSE IN WHAT THEY ARE GOING TO DO, WHETHER THEY ARE GOING TO GO TO A PARTICULAR PLACE THAT IS OR IS NOT COMPLIED WITH.

THERE IS ANYTHING, I UNDERSTAND, WE ARE HERE ON CONFLICT, BUT THERE IS A STATEMENT IN THE OPINION, THE 3rd DCA OPINION THAT TALKS ABOUT THE NIKA BROCHURE WAS STAPLED IN THE FRONT OF THE BROCHURE, IT DOES NOT CONTAIN ANY REFERENCE, THE HOSPITAL REPRESENTATIVE DID NOT DISCUSS THE BROCHURE WITH ARE YOU I, EITHER THE BROCHURE OR THE ACKNOWLEDGMENT INDICATED ANY OF THE PHYSICIANS WERE PARTICIPANTS.

DOES THAT HAVE ANY LEGAL OR FACTUAL SIGNIFICANCE?

>> NO.

THE ONLY REQUIREMENT UNDER THIS LAW HAS BEEN UPHELD BY THIS COURT HAND HAS BEEN UPHELD BY EVERY DISTRICT COURT.

>> BUT I MEAN, DON'T WE WANT TO MAKE SURE THAT THINGS ARE MEANINGFUL JUST LIKE HERE, OBVIOUSLY, IF SHE IS GOING

TO UNIVERSITY OF MIAMI AND THE CLING, SHE HAS MADE THAT DECISION, WE GET THE DOCTORS THAT ARE THERE.

I AM NOT SURE WHAT A SEPARATE NOTICE REQUIREMENT WOULD EVEN DO BECAUSE THEY HAVE ACCEPTED WHERE YOU ARE GOING.

I AM CONCERNED WITH THEIR BEING ALMOST LIKE LESS THAN A LIP SERVICE TO REQUIREMENT THAT ACTUALLY INFORMS THE PATIENT OF WHAT THE SIGNIFICANCE OF THIS IS.

SO THAT IS -- NO, NO, AIM SAYING THE DESCRIPTION THAT YOU JUST READ ABOUT HOYT WAS PRESENTED AND SO FORTH, THE PURPOSE IS HAVE TO DELIVER IT.

THERE IS A PRED SOOD DURE THAT YOU RECEIVED IT CREATING REBUTTAL PRESUMPTION THAT OCCURRED, BUT THE NOTICE ISSUED QUITE FRANKLY, NIKA DOESN'T CARE WHERE THE PATIENT RECEIVED NOTICE OR NOT.

IF THE CLAIM MEETS CRITERIA, THEY PAY THE CLAIM, THE PURPOSE IS FOR THE PATIENT AND THE INTERESTING ISSUE IS, THE CLAIMANT WHO RAISE THE NOTICE ISSUE TO AVOID TO DMORT A TORT ACTION, SO WE ARE HERE TO TRY TO EXPLAIN THAT WE THINK THAT THE 5th DISTRICT COURT OF APPEAL'S DECISION IN ALEXANDER IS REALLY GOOD LAW.

WE DO NOT BELIEVE FRANKLY THAT WE'RE IN CONFLICT. THE GALAN CASE DID IN FACT REVIEW THERE ISSUE AND THE NEXT YEAR THE LEGISLATURE MADE ISSUE.

>> IT BRINGS UP ALEXANDER, AS I RECALL, THE PATIENT APPEARED AT THE HOSPITAL AT THREE DIFFERENT TIMES AND BOTH ALL OF WHICH COULD HAVE BEEN EMERGENCY SITUATIONS.

>> WELL, YES.

FROM WAS NEVER ANY
PREREGISTRATION.

>> THAT IS RIGHT.

>> HERE, THERE WAS PREREG
RACIAL.

THREE WEEKS BEFORE SHE
ACTUALLY APPEARED AT THE
HOSPITAL, SO ISN'T THERE A
DIFFERENCE WHEN THERE IS THE
THREE-WEEK PERIOD WHERE SOME
KIND OF NOTICE POS MIA HAVE
BEEN GIVEN?

>> IN ALEX AN SDMER

>> NO.

I AM TALKING ABOUT THE CASE
BEFORE IT.

AS OPPOSED TO THE THREE
EMERGENCY SITUATIONS IN
ALEXANDER.

>> YEAH.

I THINK YOU HAVE TO
RECOGNIZE IN ALEXANDER, ALSO
HOSPITALS HAVE TO SEE
EVERYBODY WHO WALKS IN THE
DOOR BY STATE AND FEDERAL
LAW AND SO THE FACT THAT
THEY CAME IN, YOU KNOW, IS
NOT NECESSARILY A REASON TO
GIVE ANYBODY A NOTICE, HE
ESPECIALLY WHEN THEY LEFT,
SO I THINK THAT IS WHAT
GALAN BASICALLY SAID AND I
KNOW I AM INTO IT HERE JUST
ABOUT.

BUZZ GALNAN BASICALLY SAID

--

>> YOU ARE BEYOND YOUR TIME.
DID HE RECEIVE HIS FIVE
MINUTES?

>> MR. STARK?

>> YOU ARE NOT ADVOCATING
ANY PARTICULAR SIDE IN THIS.
YOU ARE TRYING TO BE SURE
THERE IS REASONABLE IN TERM
TATION INVOLVED HERE.

>> DO NOT THROW THE
ALEXANDER CASE UNDER.

>> THAT IS CORRECT.

>> MR. CONNOLLY?

>> THANK YOU.

THANK YOU CHIEF JUSTICE
LEWIS.

MAY IT PLEASE THE COURT, MY
NAME IS LINCOLN CONNOLLY

WITH CHARLES BAUMBERGER, OUR OFFICE IN MIAMI.

WE REPRESENT RUIZ AND THEIR CHILD MICHAEL ANTHONY RUIZ IN THE PROCEEDING.

>> IN THE CASE, WHAT WAS THE REASONABLE OPPORTUNITY FOR THESE PHYSICIANS TO GIVE HER NOTICE?

>> WELL, FIRST OF ALL, IN THE CIRCUMSTANCE, RIGHT OUTSIDE OF THE BUILDING, I BELIEVE THIS IS 8 DN THE EXHIBITS, DR. NORRIS, WHO IS ONE OF THE PARTICIPATING PROVIDERS HERE IS LISTED AS PHYSICIAN PRACTICING IN THERE THE UNIVERSITY MIAMI OBGYN GROUP.

HE WAS THE MEDICAL DIRECTOR WHEN SHE CAME IN TO PREREGISTER, HE IS THE MEDICAL DIRECTOR COULD HAVE WHO PREREGISTERED TODAY, WHAT NEW PATIENTS ARE COMING IN, GIVEN NOTICE FOR HIMSELF OR ANY PHYSICIANS AND, IN FACT, SHE GAVE BIRTH ON HER ANTICIPATED DUE DATE, CALL IN LABOR.

>> AS BEFORE?

>> BACK TO THE CLINIC SHE PREREGISTERED IN.

>> RIGHT.

>> THIS IS PUT INTO PERSPECTIVE.

THIS IS NOT GOING DOWNTOWN TO JACKSON HOSPITAL, WHERE YOU HAVE GOT, YOU GOT EVERYBODY COMING IN FROM GUNSHOTS TO EVERYTHING.

THIS IS A BIRTHING CLINIC?

THIS IS OB/GYN CLINIC?

>> YES, YOUR HONOR.

>> A VERY SPECIFIC PURPOSE?

>> YES, YOUR HONOR.

>> DOES THAT MAKE A DIFFERENCE FROM OTHER CASES WHERE YOU HAVE A SILK STOCK GROUP OF DOCTOR, THEY HAVE ALL KINDS OF PRENATAL CASE, THEY MEET THE DOCTORS DAY IN AND DAY OUT EVERY WEEK OR EVERY MONTH.

AND THIS SITUATION WHERE FOLKS COME IN AND REGISTER AND THEN THEY ARE GOING TO GIVE BIRTH.

THERE IS A DIFFERENT SCENARIO THAT SHOULD MAKE A DIFFERENCE IN THE INTERPRETATION OF THIS LAW?

>>S WITH WELL, AS WE LOOK AT, THIS IT PROVIDES FOR EACH PARTICIPATING PHYSICIAN TO GIVE NOTICE.

WHAT I THINK IS HAPPENING HAPPENING IN THE REAL WORLD, THEY ARE DELEGATING THAT TO ADMINISTRATIVE STAFF.

THE DOCTORS ARE NOT SITTING DOWN AND GIVING THIS NOTICE, IN FACT, DR. NORRIS THED HE UNDERSTOOD, IT WOULD BE TAKEN CARE OF BEFORE HE EVER SAW THE PATIENT.

IN SITUATIONS WHERE A PATIENT DOES NOT HAVE A PRENATAL RELATIONSHIP WITH A PHYSICIAN, USUALLY BECAUSE OF FINANCIAL CIRCUMSTANCES AND THEY HAVE TO GO TO THESE COUNTY CLINIC, I BELIEVE IT MAKES SENSE AND IT WOULD COMPORT WITH THE LEGISLATIVE INTENT FOR THE CLINIC TO SAY ALL OF THESE DOCTORS ARE PARTICIPATING PROVIDERS OR MR. STARK WOULD SAY THE CLINIC OR THE UNIVERSITY OF MIAMI DOESN'T HAVE ANY OBLIGATION UNDER NIKIA, IN THAT CASE, IF YOU OF WE ARE GOING TO CONSTRUCT EACH PHYSICIAN AND THE ADMINISTRATIVE STAFF CAN'T DO IT EITHER, THE DOCTORS HAVE TO DO IT, THAT IS NOT REAL WORLD.

>> BUT I GUESS WHAT I AM TRYING TO UNDERSTAND IN THE REAL WORLD, AGAIN, YOU TAKE SOMEONE WHO HAS GOT INSURANCE, WHO HAS NO CHOICES, THEY PICK THEIR DOCTOR, THIS THAT IS WHAT THEY ARE REALLY LOOKING AT, NOT THE HOSPITAL, THEY, THE

DOCTOR TELLS THEM WHAT HOSPITAL AND THEY ARE GOING TO THEN LATER ON PREREGISTER MAYBE AT THE HOSPITAL. AND THERE, YOU HAVE A SEPARATE NOTICE PROVISION, BUT HERE, AGAIN, THE PREREGISTRATION, WHEN SHE WENT TO JACKON CENTER, THE PLACE WHERE SHE WAS DELIVERING WAS IT THE SAME PLACE WHERE SHE WENT FOR PRENATAL VISIT?

>> NO, JUSTICE PARIENTE.

>> HE KAY.

BUT THE PHYSICIANS THAT WERE GOING TO END UP PERFORMING THE DELIVERY WORK AT LEAST THAT SIGN THAT YOU GAVE, THAT IS WHERE THEY WERE AC AT YARKSON NORTH ATTORNEY CENTER?

>> CORE RECEIPT.

SO THEN WHEN SHE GOES AND SHE -- ARE YOU CHALLENGING THE NOTICE THAT THE HOSPITAL GAVE?

>> WE WERE, YOUR HONOR. WE ELECTED NOT TO.

>> SO WHEN SHE IS MAKING THE CHOICE TO GO.

ALL RIGHT.

I AM GOING HERE.

PRESUMABLY, WE KNOW WHAT HAPPENS WHEN YOU GO TO HOSPITALS, YOU GET ALL OF THESE FORMS, NO ONE KNOW, BUT THAT IS THE PART.

SHE THEN IS ELECTING TO GO TO FACILITY WHERE, WHERE THERE IS NIKA COMPLIANCE.

THE IDEA THEN THAT THE DOCTORS AND THE PRACTICAL -- I MEAN WHAT CHOICE WOULD SHE HAVE OTHER THAN, DOESN'T HAVE A SEPARATE DOCTOR TO GO TO, THOSE ARE THE ONLY DOCTORS THAT WOULD BE WORKING OUT OF THAT PARTICULAR CLINIC, WHERE YOU CAN'T GO AND SAY I WILL GET ANOTHER DOCTOR TO COME HERE.

>> WELL, THE RECORD ITSELF IS NOT DEVELOPED AS TO WHAT

OTHER OPTIONS.

>> BASICALLY, WHAT I AM GETTING AT, WHERE WOULD THE CHOICE BE FOR HER WHEN SHE DECIDED TO GO TO THIS PLACE, THEY HAVE ON STAFF PHYSICIANS, WHAT IS, WHAT IS THE MEANING OF ANY ADDITIONAL NOTICE AS FAR AS REASONABLE OPPORTUNITY ASPECT OF THE SITUATION?

>> WELL, THE -- MRS. RUIZ TESTIFIED, AS I RECALL, SHE SELECTED JACKSON NORTH BASED ON RECOMMENDATION OF OTHER EXPECTANT MOTHERS WHO DELIVERED THERE. IT WAS AN EASY PLACE TO GO TO.

THERE IS NO DEVELOPMENT IN THE RECORD BY EITHER SIDE ABOUT WHAT OTHER PLACES SHE COULD HAVE GONE TO IN DADE COUNTY.

>> DO YOU AGREE SHE DIDN'T HAVE A PHYSICIAN-PATIENT RELATIONSHIP WITH THE DOCTORS THAT SHE IS NOW SUING BEFORE THE EMERGENCY AROSE?

>> THEY HAD NOT TREATED HER M; HOWEVER, THE UNIVERSITY OF MIAMI WAS AWARE SHE HAD COME IN FOR REPREREGISTRATION BEFORE THE WENT TO LABOR.

I WILL DIRECT THE COURT TO, I BELIEVE IT IS EXHIBIT 7, WHICH ARE THE EXHIBITS TO THE DEPOSITION, THE UNIVERSITY OF MIAMI DIRECTOR OF 3rd PARTY BILLING COMPLIANCE, I THINK. IF YOU LOOK AT EXHIBIT 2, EXHIBIT 3, EXHIBIT 4 TO HER DEPOSITION EXHIBITS WERE ARE 7 IN THE PROCEEDING, THEY SHOW THAT THE UNIVERSITY OF MIAMI LOGGED HER IN IN THE BILLING SYSTEM ON AUGUST 12th AND AUGUST 10th OF 1998.

THE DAY BEFORE SHE CAME IN. THE UNIVERSITY OF MIAMI WAS

AWARE OF THIS IN PRACTICAL TERMS, HOW COULD THESE FISZ HAVE GIVEN HER NOTICE OF THEIR PARTICIPATION IN THE NIKA.

>> THEY ARE DOING IT WILL NOW.

>> JUSTICE IT IS PRACTICE CAL FOR UNIVERSITY OF MIAMI TO DO IT FOR THE PHYSICIAN FILLING THAT IF NOT GOING IMPOSE THAT OBLIGATION ON THE EMPLOYERS STATUTE REALLY ISN'T CRAFTED FOR THE THE REAL WORLD EITHER BUT FOR THE DOCTORS TO SAY, OKAY, PLEASE SUBMIT THIS LIST WITH MY NAME ON IT AS PARTICIPATING PROVIDER WHEN THE PATIENT PREREGISTERS.

>> ARE YOU IN AGREEMENT, THAT EVERY DELIVERY, IS AN EMERGENCY?

>> ULTIMATELY, THE BREADTH OF EVERY LIVE INFANT BECOMES EMERGENCY MEDICAL CONDITION UNDER STATITY SO THEREFORE EXCEPTING THE UNIVERSITY MIAMI'S ARGUMENT WOULD BE SWALLOW THE RULE NOW THEY COME IN AND SAY WELL, WE DON'T REALLY MEAN THAT IT WAY SO LET'S PUT OTHER -- OTHER WORDS IN THE STATUTE CAT BRIGHT LINE RULE.

>> 16 HOURS LABOR OR SO HERE SFIE BELIEVE SHE CAME IN, ON THE AFTERNOON 13th LABOR, AT ABOUT, I WANT TO SAY 4:00 P.M., SHE DELIVERED I THINK AT 6:00 IN THE MORNING WITH CESAREAN SECTION.

.
>> I JUST WANT TO MAKE SURE SO YOU WOULD IF THE BROCHURE HAD INDICATED, THAT THE PHYSICIANS ON THE STAFF WERE ALSO PARTICIPATING IN THE NIKA PLAN WE WOULDN'T BE HERE?

>> UNDER THEE\$\$!! SUN LIFE DECISION OUT OF 4th DISTRICT THAT WOULD BE SUFFICIENT. I KONT!!\$!!!!!!CONTINUE KNOW -- I HAVE CONCERNS.

WE HAVE CONCERNS ABOUT THE NIKA BROCHURE ITSELF WE ELECTED NOT PROCEED WITH APPEAL OF THATTING AS TO THE PUBLIC HEALTH TRUST, BUT I WOULD NOT CONCEDE IS THAT THE NIKA PRO CHUR AS DELIVERED IN THIS CASE IS SUFFICIENT UNDER STATUTE THAT IS NOT REALLY ISSUE HERE NOO THIRD DISTRICT CERTIFIED CONFLICT, IS THERE CONFLICT BETWEEN ON THIS ISSUE BETWEEN DISTRICTS OR ARE ALL THESE CASES FACT SPECIFIC THIS CASE WHERE THERE WAS -- CERTIFIED.

>> THEY ARE DIFFERENT WHEN IT COMES TO THE FACTS OF EACH CASE BUT FOR THE BROAD PRINCIPLES, THEY ARE IN CONFLICT, YOU KNOW, WE COULD SEE -- CONCEDED THIRD DRRTH THEY COULD DISTINGUISH ALEXANDER ON FACTS IF THEY CHOOSE I TO BELIEVE PUT IN A FOOTNOTE THAT WAS POSSIBLE.

>> WHAT IS THE PRINCESS!!IPLE IN ALEXANDER IN CONFLICT WITH THIS.

>> ANY TIME THE PATIENT EVENTUALLY IS ANYTHING EMERGENCY MEDICAL CONDITION THAT IS ACTIVE LABOR ANY PRIOR OPPORTUNITIES THAT EXISTED TO GIVE NOTICE NO LONGER MATTER.

AND NOTICE IS EXCUSED.

>> IN ALEXANDER WERE THERE REALLY ANY OPPORTUNITIES, UNLIKE THIS CASE, WHERE, WHERE MAYBE THERE ARES WAS A PRIOR OPPORTUNITY, BECAUSE SHE PREREGISTERED AT THE HOSPITAL, IN ALEXANDER, EVERY TIME SHE APPEARED AT THE HOSPITAL, IT SEEMS THERE WAS AN EMERGENCY CONDITION, AND SO, ISN'T THAT DOESN'T THAT MAKE A DIFFERENCE AS TO WHETHER OR NOT THEY REALLY HAVE THE SAME PRINCIPLE OF LAW IN THEM?

>> WELL, IN ALEXANDER, I DON'T BELIEVE THE EMERGENCY

CONDITIONS THAT SHE WAS AT THE HOSPITAL ON THREE PRIOR OCCASIONS FOR WERE EMERGENCY MEDICAL CONDITIONS UNDER 395.002.

I THINK.

>> WHICH MAKES IT EVEN MORE DIFFERENT IT SEEMS TO ME, BECAUSE THEN SHE IS PRESENTED FOR THE FIRST TIME AT THE HOSPITAL ON AN OICHLTS BGYN!!\$\$!!!!!! BGYNSITUATION IN EMERGENCY SO UNDER THOSE CIRCUMSTANCES, WOULDN'T YOU HAVE TO AGREE, THAT THE EXCEPTION FOR THE EMERGENCY WOULD IN FACT APPLY WHEREAS IN THIS CASE, SHE PRESENTED AT THE HOSPITAL AT LEAST, ONE OTHER POINT, IN A NONEMERGENCY SITUATION WHERE OSTENSIBLY, SOME KIND OF NOTICE WOULD HAVE BEEN GIVEN.

>> SPEAK LAST OCCASION PRESEBLTED TO ORLANDO REGIONAL MEDICAL CENTER ALEXANDER.

>> RIGHT YOU SAID THAT WAS THE ONLY OBICHLT!!\$\$!!!!!!!-GYN SITUATION WHERE SHE PRESENTED AT HOSPITAL.

>> ONLY EMERGENCY MEDICAL CONDITION WITH ACTIVE LABOR, AS I UNDERSTAND THE ALEXANDER PIN THE FACTS OF IT.

BUT,S IF IT IS A DIFFICULT STATUTE BECAUSE IT IS CRAFTED KIND INFORM A BROAD WAY THAT DOESN'T MEET EVERY REAL WORLD SITUATION I THINK THAT IS WHY THIS COURT GALEN AND FLORIDA VERSUS BRANF SAID HAVE TO BE FACT!!\$\$!!!!!!

FACTUAL -- OR WHEN INFORMS PRACTICABLE I THINK TO THE EXTENT THAT THIS MIGHT EXPLAIN ALEXANDER.

OR OUR TAKE ON IT THAT A WOMAN WHO IS PREGNANT, PRESENTS TO THE HOSPITAL FOR MEDICAL CARRY EVEN THROUGH THE EMERGENCY ROOM NOT FOR DELIVERY OF THE INFANT BUT FOR SOME MEDICAL CARRY, THAT IT IS REASONABLE TO CHARGE

THE HOSPITAL WITH NOTICE THAT THIS PATIENT MAY BE PRESENTS THERE FOR DELIVERY WHEN FILLING OUT THE OTHER FORMS SAY BY THE WAY, SINCE YOU ARE PREGNANT WOMAN WHO IS HERE FOR MEDICAL TREATMENT SHOULD YOU COME HERE DELIVERE YOUR CHILD, WE HAVE YOU KNOW WE ARE PARTICIPANT IN THE NIKPROGRAM.

>> WHEN IS FIRST TIME A PHYSICIAN PATIENTLY RELATIONSHIP AROSE BETWEEN MRS. RUIZ AND THE UNIVERSITY PHYSICIAN?

>> SPECIFICALLY HANDSON TREATMENT, IT WAS WHEN SHE CAME IN, ON AUGUST 13, IN LABOR.

HOWEVER, SHE PRESENTED TO THIS FACILITY THAT IF YOU LOOK AT THE PHOTOGRAPHS OF EXHIBIT 8, HAVE UNIVERSITY MIAMI'S NAME ALL OVER IT CHLT!!\$\$!!!!!!!.

TO PREREGISTER, AND I BELIEVE WAS POINTED OUT EARLIER THIS IS A RECUR THING WHERE THEY KNOW THESE PATIENTS ARE GOING TO COME IN PREREGISTER NOT COME BACK --

>> I GUESS THE -- THERE IS AN ISSUE OF FACT THAT HAS TO OCCUR I MEAN A FINDING AS TO WHEN THE PHYSICIAN-PATIENT RELATIONSHIP ARISES? BECAUSE, AGAIN, THE MR. STARK HAS CONCEDED THAT IF THERE WAS AN ONGOING PHYSICIAN-PATIENT RELATIONSHIP, THEY CAN'T RELY ON THE EMERGENCY EXCEPTION THEY'VE GOT TO GIVE THE NOTICE AT THE TIME THE \$\$ PHYSICIAN-PATIENT RELATIONSHIP ARISES.

DO YOU READ THE STATUTES BEING CONTINGENT ON LOOKING AT WHEN THE ACTUALLY PHYSICIAN-PATIENT RELATIONSHIP COMES INTO BEING?

>> I DO NOT JUSTICE PREBTE, IT -- PARIENTE IT DOES NOT

SAY O O UPON FORMATION
PHYSICIAN PATIENT
RELATIONSHIP NOTICE SHALL BE
GIVEN IT SAYS EACH
PARTICIPATING PHYSICIAN SHALL
GIVE NOTICE TO OBSTETRICIAN
PATIENTS, WE HAVE, \$\$\$!!! -- WHEN IT
COMES TO THE DELIVERY OF
INFANTS A SYSTEM WHERE
OBSTETRICIAN SEAN OBS TRIR SEAN IN
PRIVATE SMITH A SAY OKAY I
WILL BE YOUR DOCTOR THAT IS
NOT TRUE IN ALL CIRCUMSTANCES
THAT OBSTETRICIAN MAY GO ON
VACATION BE OUT SICK MAY NOT
BE WORKING NIGHT SHIFT HAS A
PARTNER SOMEONE ELSE COVER
FOR HIM, AND SO, NO DOCTOR
EVERY KNOWS FOR SURE THAT
THEY WILL BE THE DOCTOR THAT
WILL DELIVER THE INFANT AND
UNDER UNIVERSITY MIAMI
ARGUMENT BECAUSE DR. NORRIS
AND DR. BARKER DIDN'T KNOW
THAT THEY WOULD BE WORKING
WHEN WAUPITA RUIZ CAME IN, TO
DELIVER HER CHILD THEY HAD NO
OBLIGATION TO PROVIDE --
>> BUT HE CONCEDES THAT IN A
SITUATION WHERE YOU THAT
PATIENT GOES TO A SEPARATE
PRACTICE OVER SAEFRL-MONTH
PERIOD, THAT THEY CAN'T RELY
THEY CAN'T SAY WELL, THE
EMERGENCY AROSE WHEN THE
PERSON YOU NOE!!!KNOW SAY PREMATURE
BIRTH COME INS SEVEN MONTHS
IF THEY HAVE BEEN, SEEING
THEM, THROUGHOUT, THEY'VE GOT
TO GIVE THAT NOTICE, DO YOU
SEE THAT AS BEING A --
STATUTE -- ACTUALLY, EXPLAINS
OR -- WOULD THEY WOULD A
DOCTOR IN THAT SITUATION
STILL BE ABLE TO SAY I
COULDN'T GIVE THE NOTICE
BECAUSE OF THE EMERGENCYING
EXCEPTION?
>> NOT SO MUCH THAT BUT THAT
THOSE DOCTORS I CAN ASK WE
DIDN'T KNOW WHICH ONE OF US
WAS GOING TO BE DELIVERING
THIS INFANT CASE WE DIDN'T
KNOW WHEN SHE WAS GOING TO GO

INTO LABOR AND WHAT OUR WORK
SCHEDULE IS IF WE LOOK HERE
THE SPROENLTD DUE DATE DR.
NORRIS DR. BARKER WERE
WORKING THAT TODAY IF THEY
CHECKED THE DATE SHE WAS DUE
WHOS WOULD WORKING WOULD HAVE
KNOWN DR. NORRIS DR. BARKER
WOULD HAVE BEEN WORKING.

>> I'M STILL TRYING TO
UNDERSTAND HOW THEN,
UNDERSTAND THE PLAIN LANGUAGE
THAT THE PURPOSE OF THE
STATUTE BEING TO ALLOW A
PATIENT WHO HE HAS -- TO TAKE
INFORMED CHOICE BETWEEN USING
OBSTETRICIAN PARSE PAILTHS IN
THE PLAN AND USING ONE WHO
DOES NOT, DO YOU READ THAT
OVERALL THAT IS THE PURPOSE
OF THE STATUTE.

>> 316 YES YOUR HONOR.

>> OKAY.

AND YOU THINK THAT IT DOESN'T
ANTICIPATE THAT IT MAKES A
DIFFERENCE AS TO WHEN THE
PHYSICIAN-PATIENT
RELATIONSHIP ARISES?

.
>> IT IS WHEN THE PHYSICIAN
REGARDLESS WHEN HE FIRST DOES
HANZ ONLY TREATMENT, HAS THE
OPPORTUNITY TO KNOW THAT HE
WILL BE PHYSICIAN IN TO
FURNISH NOTICE WHAT A THIRD
DISTRICT I THINK PICKED UP ON
IN THIS CASE, IS THAT AND AS
CHIEF JUSTICE LEWIS WAS
ASKING IN SITUATIONS IN THE
POORER COMMUNITIES, DO YOU
NOT HAVE PATIENTS THAT HAVE
THESE ONGOING PRENATAL
DR.-PATIENT RELATIONSHIPS YOU
ARE GOING TO SET UP IS DYM
CRIMINAL TORY SYSTEM
POTENTIALLY SUBJECT TO EQUAL
PROTECTION ISSUE WHERE POORER
EXPECTANT MOTHERS ALL LOSE
RIGHT TO PROCEED WITH A
COMMON LAW --

>> GUESS MY EARLY\$!!IER QUESTION
IN THAT SITUATION, THE PERSON
IS CHOOSE THE CLINIC NOT
CHOOSING THE DOCTOR, SO THEY

HAVE MADE THEIR INFORMED CHOICE, THEY'VE GOTTEN THEIR NOTICE FROM THE CLINIC, THAT THEY PARTICIPATE, ISN'T THAT THEIR INFORMED CHOICE, THE DOCTORS ARE SECONDARY I GUESS THAT IS WHAT IN ANOTHER SITUATION YOU REALLY ARE CHOOSING THE DOCTOR AND THEN THE HOSPITAL IS SECONDARY. ISN'T THAT THE REALITY OF HOW THESE THINGS WORK?

>> WELL HERE, FACTUALLY IN THIS CASE, IF WE LOOK AT THE NIKA BROCHURE IT SAYS THAT ANY HOSPITAL WITH A PARTICIPATING PHYSICIAN ON STAFF AND HERE THERE WAS NOTHING FURNISHED EITHER BY MISS WADL-E.Y. CLERK GAVE PAMPHLET STAPLED AMONGST TWO OTHERS TESTIFIED SHE DOESN'T KNOW ANYTHING ABOUT NIKAIHLT CAN'T EXPLAIN TO PATIENTS NOR BROCHURE NOR STAMP ACKNOWLEDGING RECEIPT OF THE --

>> WHETHER INFORMED NOTICE QUESTION I ASKED EARLIER ASSUMING SHE MADE AING ME ON -- MEANINGFUL CHOICE NOT CHALLENGING IT THE FACILITY -- THEN ISN'T THAT -- THAT IS WHERE THE RELATIONSHIP WAS, NOT WUTH!!\$\$!!!!ITH THE DOCTOR.

>> BUT IT IS NOT JUST ENOUGH THAT THE FACILITY --

>> IN OTHER WORDS SHE COULDN'T SAY I'M GOING FACILITY BUT I'M NOT GOING I DON'T WANT TO PICK THESE DOCTORS, COULD SHE?

>> NO, IF SHE WAS GOING TO BE AT THAT FACILITY WOULD HAVE TO BE THOSE DOCTORS.

>> ALL ARE ALL THE DOCTORS IN THAT FACILITY A PART OF THE NICA ALSO THERE ARE DOCTORS THERE WHO WON'T.

>> NO NOAA NO THE RECORD IS ALL ATENDING PHYSICIANS THERE UNIVERSITY MIAMI PROFESSORS AND THEY ARE ALL PARTICIPANTS OF NIKA WITH NIKA -- SPISHG

-- CIRCLES BACK TO HEART OF THIS, THIS IS NOT A FACILITY THAT TREATIES -- GUNSHOT WOUNDS ALL THOSE THINGS; CORRECT?

IT AP DECK TO MANY MIS, SURGERIES IT IS OBICHLT!!\$\$!!!!!!!-GYN KIND OF CLINIC YOU CALL IT A HOSPITAL,BUT I MEAN IT IS -- FOR THAT PURPOSE.

>> MATERNITY ZMROOERNT EXACTLY WITH THE IT IS FOR BETS GABBING TO THE QUESTION WHY THEN, SHOULD THAT INITIAL NOTICE NOT BE SUFFICIENT THAT IS WHERE YOU ARE GOING. THIS IS NOT REALLY THAT SITUATION, OF THE SILK STOCKING OIBGYN WE LET YOU GO WHERE YOU WANT, THEY ARE REALLY ONE AND THE SAME ARE THEY NOT, WE CAN TALK ABOUT LEGAL DISTINCT ENTITIES, BUT IN OPERATION, ARE THEY NOT JUST ONE OPERATION.

>> THAT MAY BE THE CASE YOUR HONOR, IF THIS IS LIKE THE SUN LIFE CASE WHERE THE NOTICE SAID, THAT THIS HOSPITAL HAS PARTICIPATING PHYSICIANS ON STAFF, THIS BROCHURE THAT NIKA WAS GIVING OUT AT THE TIME I DON'T KNOW IF IT CHANGED OR NOT, JUST SAYS THAT IF YOU ARE HOSPITAL HAS PARTICIPATING PHYSICIANS ON STAFF, SO EVEN IF THIS NOTICE WASN'T BURIED, AMONGST WHAT TO OTHER THINGS EVEN IF MICHELLE WADLY SAID TO JUANITA RUIZ STOP FOR A MINUTE LOOK AT THIS READ THIS GOING TO LIMIT YOUR LEGAL RIGHTS --

>> CHANGES THESE LEGAL ISSUE THEN.

>> BUT IT DOES NOT SAY THAT THAT -- FRATERNITY CENTER WE HAVE PARTICIPATEDING FIZZING ON NIKA ON.

>> YOU HAVE CHAENGZ LEGAL ISSUE FROM WHETHER THIS IS NOT ICATION FORM IS SUFFICIENT COMPLIANCE, RATHER

THAN WHAT A YOU ARE
PRESENTING IS THAT THE
PRESENT TO A HOSPITAL ALL
EMERGENCY, WHAT A PRIOR
RELATIONSHIP IS SEEMS TO JUST
CHANGE THE TO THE!!\$\$!!!!!!TAL FOCUS WITH
THE ONE HAS TO DECIDE IF IT
IS THE LANGUAGE OF THAT
BROCHURE THAT DOESN'T
COVER --

>> LANGUAGE NAF BROCHURE
DOESN'T KFBER FOR PHYSICIANS.
>> RIGHT THAT IS NOT OUR
LEGAL ISSUE TODAY IS IT --
>> THEY ARE SAYING THAT THAT
THE FACT THAT THE HOSPITAL
FURNISHED NOTICE SHOULD COVER
PHYSICIANS AS WELL EITHER
BECAUSE THEY ALSO HAVE
CONTRACTS PUBLIC HEALTH TRUST
TRUST SZS 50IS SZ TRUST SZS
50IS SZ

.
>> THEY CAN GET IT EVEN IF NO
NO TIFSZ WAS GIVEN THE ISSUE
HERE IS.

>> BUT THAT IS BUT AGAIN I
MEAN WE ARE NOT DISCUSSING
WHETHER IMMUNITY APPLIES OR
NOT IT IS A QUESTION OF YOU
TO DO CERTAIN THINGS TO
OBTAIN I AM MUNLITY THAT'S
WITH THE WE ARE TALKING
ABOUT.

>> I UNDERSTAND THAT
ALEXANDER CASE TO ANSWER THE
QUESTION THE PATIENT'S
PRIVATE PHYSICIAN WAS NOT A
PARTICIPANT -- PARTICIPATING
PHYSICIAN, THE PATIENT CAME
INTO THE HOSPITAL THREE
TIMES, WITH EMERGENCIES BUT
THE ER MEDICAL STAFF THAT
ACTUALLY DELIVERED THE BABY
THAT COURT CONCLUDED IT WAS
EMERGENCY SITUATION, THEY
WERE ENTITLED TO THE \$\$
EXCLUSIVITY THE APE SKRAIS
MUCH LIKE US BOARD OF REGENTS
UNIVERSITY MEDICAL CENTER
STATUTORY TEACHING HOSPITAL,
ATTENDING PHYSICIANS
SUPERVISED JUST LIKE IN THIS
CASE, AND THAT CASE THEY

CONCLUDED THAT -- THAT THEY DIDN'T GIVE NOTICE THEREFORE THERE IS NO EXCLUSIVITY WITH THE COURT CASE WE AFFIRM AS TO THE HOVZ THAT HAD PREREGISTRATION ABILITY, BUT WE REVERSE AS TO THE ATTENDING PHYSICIANS AND THEY SPECIFICALLY SAY LIMITED RECORD HERE DOES NOT INDICATE FOR EXAMPLE WHETHER PRIOR TO DELIVERY, THESE ATENDING PHYSICIANS HAD ANY PRENATAL OR OTHER PRIOR PROFESSIONAL RELATIONSHIP WITH THESE PATIENTS, SUCH AS NIKA NOTICE COULD REASONABLY HAVE BEEN GIVEN THAT'S OUR POSITION.

>> IS THAT A FACTUAL SITUATION -- MATERNITY CLINIC >> A BIRTHING CENTER, SAME THING.

>> STATUTORY TEACHING HOSPITAL BISHLTHDING CENTER RES DEN --

>> RESIDENTS.

>> -- HVPDZ MAY BE A LITTLE DIFFERENT I MEAN SHANS AND JACKSON -- DIFFERENT THAN LITTLE BIRTHING CLINIC, DOES THAT INVOLVE A BIRTHING CLINIC THAT WE ARE TALKING ABOUT?

MANNED OR STAFFED BY JUST A GROUP OF PHYSICIANS FOR THAT ONE PURPOSE.

>> AFE WAS IN FACT UNIVERSITY MEDICAL CENTERS -- OBSTECKTRICAL DELIVERY UNIT WHAT A IT IS WE DON'T KNOW IF A BIG HOSPITAL OR NOT, BUT THE PROBLEM HERE IF I RENT SPACE NEXT DOOR TO BAPKOIST BAPTIST HOSPITAL MIAMI SAY SO AND SOP OBSTECK RICKAL GROUP THEY WOULD SAY OBVIOUSLY, THEY SHOULD HAVE GIVEN NOTICE TO EVERYBODY WHO CAME INTO THE EMERGENCY ROOK MIGHT DELIVERER THERE IN FACT WHAT THEY ARE SUGGESTING THAT WE ACTUALLY NEED TO GIVE NOTICE TO EVERYBODY WHO IS A RESIDENT AT DADE COUNTY MAY

DELIVER AT THESE HOSPITALS
MAKES ABSOLUTELY NO SENSE,
TO REQUIRE WHEN IN FACT THEY
HAVE NOT SEEN THE PATIENT,
HERE THE PATIENT DID IN THE
REAL WORLD, HAVE A REAL
CHOICE.

SHE CHOSE CLINIC SHE KNEW THE
PHYSICIANS WOULD BE SUPPLIED
BY THE HOSPITAL, NOTICE WAS
GIVEN, THERE IS NO
CONSTITUTION!!\$\$!!!!!!!!!!!!!!!!!!!!
CONSTITUTIONAL INFIRMITY HERE
IS THAT WHY THEY PUT IT IN,
AND THE EMERGENCY EXCEPTION
WHICH WASN'T PRESENT IN AFE
CASE NOW IS HERE WE BELIEVE
THE APPELLATE COURT WAS WRONG
AND THAT THEY SHOULD HAVE
CONCLUDED THAT EXCLUSIVITY
APPLIED TO EVERYBODY NOT JUST
THE HOLLYWOOD.

>> THANK YOU VERY MUCH.

.
>> WE'LL TAKE THE CASE UNDER
ADVISEMEN