

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

ADVENTIST HEALTH SYSTEM/SUNBELT,
INC. D/B/A FLORIDA HOSPITAL ALTAMONTE
AND WILLIAM HUETHER, III, M.D.,

Petitioners,

v.

Case No. 5D22-1898
LT Case No. 2019-CA-000231

SALLY MACHALEK AND MATTHEW
APTER, M.D.,

Respondents.

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Opinion filed December 16, 2022

Petition for Certiorari Review of Orders from
the Circuit Court for Seminole County,
Michael J. Rudisill, Judge.

Craig S. Foels, Christian P.
Trowbridge, and Dinelia A.
Concepcion, of Estes, Ingram, Foels
& Gibbs, P.A., Maitland, for
Petitioners.

Andres I. Beregovich, of The
Beregovich Law Firm, P.A., Orlando,
for Respondent, Sally Machalek.

No Appearance for Other
Respondent.

PER CURIAM.

Petitioners, Adventist Health System/Sunbelt, Inc., d/b/a Florida Hospital Altamonte and William Huether, III, M.D., who are defendants in a medical malpractice action brought against them by Respondent, Sally Machalek, jointly seek certiorari review of the trial court's denial of their respective motions to dismiss Machalek's first amended complaint. Petitioners asserted in their motions that Machalek's complaint should be dismissed because she had failed to comply with certain statutory presuit requirements applicable to medical malpractice actions brought under chapter 766, Florida Statutes. While Petitioners raise several arguments here for relief, we need only briefly address one.

Our court has recently explained that a trial court departs from the essential requirements of the law, thus justifying certiorari relief, when it denies a defendant's motion to dismiss the plaintiff's medical malpractice action without making "express findings" as to whether the plaintiff has complied with the statutory presuit requirements. *Dontineni v. Sanderson*, 346 So. 3d 169, 170 (Fla. 5th DCA 2022) (citing *Osceola Reg'l Hosp. v. Calzada*, 246 So. 3d 1300, 1301 (Fla. 5th DCA 2018)); see also *PP Transition, LP v. Munson*, 232 So. 3d 515, 516 (Fla. 2d DCA 2017) (granting

certiorari relief where the trial court denied the hospital's motion to dismiss without making express findings as to whether the plaintiffs complied with presuit investigation requirements applicable to medical malpractice cases). The trial court's separate, contemporaneously-entered, virtually identical unelaborated orders denying Petitioners' respective motions to dismiss do not comply with this requirement.

Accordingly, we grant the petition for writ of certiorari, quash the orders under review, and remand for the trial court to make the requisite express findings as to whether Machalek complied with chapter 766's presuit requirements.¹

PETITION GRANTED; ORDERS QUASHED; REMANDED for further proceedings consistent with this opinion.

LAMBERT, C.J., EVANDER and HARRIS, JJ., concur.

¹ We find it unnecessary to reach and therefore have taken no present position on the merits of any of the other arguments raised by Petitioners in their petition.