

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
January Term 2013

VICTORIA A. GIORGIONE,
As Personal Representative of the
ESTATE OF ALAN ROBERTS,
Appellant,

v.

ALBERTSON'S INC., B.H.A., L.L.C., SEBASTIAN RAPISARDA, and
STATE OF FLORIDA, AGENCY FOR HEALTH CARE
ADMINISTRATION,
Appellees.

No. 4D10-2313

[June 26, 2013]

ON MOTION FOR REHEARING

CONNER, J.

We deny the appellee's motion for rehearing and motion for rehearing en banc.¹ However, in light of the decision issued by the United States Supreme Court in *Wos v. E.M.A.*, 133 S. Ct. 1391 (2013), we withdraw our previous certification of conflict with *Garcon v. Agency for Health Care Administration*, 96 So. 3d 472 (Fla. 3d DCA 2012), and with *Russell v. Agency for Health Care Administration*, 23 So. 3d 1266 (Fla. 2d DCA 2010).

WARNER and DAMOORGIAN, JJ., concur.

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Appeal from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Thomas H. Barkdull, III, Judge; L.T. Case No. 502005 CA006389XXXXMBAO.

Bard D. Rockenbach of Burlington & Rockenbach, P.A., West Palm

¹ Appellant Alan Roberts passed away while this appeal was pending. We granted a motion to substitute his personal representative in his place.

Beach, and Harry A. Shevin of Domnick & Shevin, PL, Palm Beach Gardens, for appellant.

Kenneth W. Sukhia of Sukhia Law Group, PLC, Tallahassee, James H.K. Bruner Sr., Tallahassee, and Adam J. Stallard, Tallahassee, for State of Florida, Agency for Health Care Administration.