

# Third District Court of Appeal

State of Florida

Opinion filed February 26, 2020.

Not final until disposition of timely filed motion for rehearing.

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No. 3D19-1861

Lower Tribunal No. 17-23366

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**Karen Walker,**  
Petitioner,

vs.

**Alana Rodriguez, etc., et al.,**  
Respondents.

On Petition for Writ of Certiorari from the Circuit Court for Miami-Dade County, Alexander Bokor, Judge.

Simon Schindler & Sandberg LLP, and Sherryll Martens Dunaj, for petitioner.

Boyd Richards Parker & Colonnelli, P.L., and Elaine D. Walter, Yvette R. Lavelle, and Gissell Jorge, for respondents Sedgwick Claims Management Services, Inc., North Shore Medical Center d/b/a Florida Medical Center and Amy Wilds; Marjorie Gadarian Graham (Palm Beach Gardens); Bram J. Gechtman, for respondent Alana Rodriguez.

Before EMAS, C.J., and FERNANDEZ and LOGUE, JJ.

LOGUE, J.

Karen Walker petitions this Court for issuance of a writ of certiorari to quash, in part, the trial court's August 26, 2019 Order granting Respondent Alana Rodriguez ("Rodriguez") leave to amend her complaint to add a claim for punitive damages.

Florida law is well-settled on this point:

appellate courts do have certiorari jurisdiction to review whether a trial judge has conformed with the procedural requirements of section 768.72, but do not have certiorari jurisdiction to review a decision of a trial judge granting leave to amend a complaint to include a claim for punitive damages when the trial judge has followed the procedural requirements of section 768.72. Certiorari is not available to review a determination that there is a reasonable showing by evidence in the record or proffered by the claimant which would provide a reasonable basis for recovery of such damages.

Ross Dress For Less Va., Inc. v. Castro, 134 So. 3d 511, 525 (Fla. 3d DCA 2014) (quoting Globe Newspaper Co. v. King, 658 So. 2d 518, 519 (Fla. 1995)); see, e.g., Cat Cay Yacht Club, Inc. v. Diaz, 264 So. 3d 1071, 1074 (Fla. 3d DCA 2019) ("Review of an order granting a motion to amend to add a punitive damages claim requires us to consider whether a trial judge has conformed with the procedural requirements of section 768.72 . . . , but the scope of review is not so broad as to encompass review of the sufficiency of the evidence considered in that inquiry." (citations and quotations omitted)).

In this case, we conclude that the procedural requirements of the statute were followed. See Levin v. Pritchard, 258 So. 3d 545, 547-48 (Fla. 3d DCA 2018) (concluding that the trial court complied with the procedural requirements of the statute because the plaintiff’s motion to amend detailed his claim, plaintiff proffered evidence to support his punitive damages claim and, after a hearing, the trial court applied the correct law and entered an order finding the proffer to be sufficient to support the claim).

Because we are bound by Globe, we cannot review the petitioner’s claims which go beyond a determination of whether the trial court complied with the procedural requirements of section 768.72, and, instead, invite this Court to address the sufficiency of the evidence or the reasonableness of the trial court’s determination.<sup>1</sup>

Petition dismissed.

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<sup>1</sup> We are mindful that, recently, the Fourth District reached the same result as here but also “note[d] that several appellate courts and individual judges have questioned the continued efficacy of Globe in modern litigation and suggested an amendment to Florida Rule of Appellate Procedure 9.130 to permit non-final appeals of orders on motions to amend to add a punitive damage claim.” Sapp v. Olivares, No. 19-2201, 2020 WL 89540 at \*1, n.1 (Fla. 4th DCA Jan. 8, 2020) (citing Event Depot Corp. v. Frank, 269 So. 3d 559, 563-65 (Fla. 4th DCA 2019) (Kuntz, J., concurring specially); Osechas v. Arcila, 271 So. 3d 65, 66 (Fla. 3d DCA 2019) (Scales, J., specially concurring); Levin, 258 So. 3d at 548 n.4; TRG Desert Inn Venture, Ltd. v. Berezovsky, 194 So. 3d 516, 520 n.5 (Fla. 3d DCA 2016)).