

NOT FINAL UNTIL TIME EXPIRES
TO FILE REHEARING MOTION
AND, IF FILED, DISPOSED OF.

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
THIRD DISTRICT
JANUARY TERM, 2004

SHARI DANIELS,	**	
Appellant,	**	
vs.	**	CASE NO. 3D03-706
STATE OF FLORIDA, DEPARTMENT	**	LOWER
OF HEALTH,	**	TRIBUNAL NO. 02-3106
Appellee.		

Opinion filed January 14, 2004.

An Appeal from the Division of Administrative Hearings.

Solms & Price and Max R. Price, for appellant.

Avron Bernstein, for appellee.

Before COPE, GODERICH and SHEPHERD, JJ.

PER CURIAM.

The petitioner, Shari Daniels, appeals from a final order of the Division of Administrative Hearings denying her amended petition for attorney's fees, pursuant to the Florida Equal Access to Justice

Act. § 57.111, Fla. Stat. (2002), based on the Administrative Law Judge's [ALJ] finding that she is not a "small business party" as defined by section 57.111(3)(d). A review of the record shows that the administrative complaint was filed against the petitioner individually, rather than her corporation. On this basis, the ALJ's denial of fees was proper. See Florida Real Estate Comm'n v. Shealy, 647 So. 2d 151 (Fla. 1st DCA 1994); Department of Prof'l Regulation, Div. of Real Estate v. Toledo Realty, Inc., 549 So. 2d 715 (Fla. 1st DCA 1989); Thompson v. Department of Health & Rehabilitative Servs., 533 So. 2d 840 (Fla. 1st DCA 1988). Accordingly, we affirm but certify conflict with Albert v. Department of Health, Bd. of Dentistry, 763 So. 2d 1130 (Fla. 4th DCA 1999), and Ann & Jan Retirement Villa, Inc. v. Department of Health & Rehabilitative Servs., 580 So. 2d 278 (Fla. 4th DCA 1991).

Affirmed; conflict certified.