

Supreme Court of Florida

THURSDAY, MARCH 27, 2025

Lynn M. Keuthan,
Petitioner(s)

v.

Glenn Keuthan, et. al.,
Respondent(s)

SC2025-0327

Lower Tribunal No(s).:
4D2024-1980, 4D2024-3352;
062017CP004497A001CE

Petitioner's Petition for Writ of Mandamus is hereby dismissed. This Court's jurisdiction to issue extraordinary writs may not be used to seek review of an unelaborated decision from a district court of appeal that is issued without opinion or explanation or that merely cites to an authority that is not a case pending review in, or reversed or quashed by, this Court. *See Foley v. State*, 969 So. 2d 283 (Fla. 2007); *Persaud v. State*, 838 So. 2d 529 (Fla. 2003); *Stallworth v. Moore*, 827 So. 2d 974 (Fla. 2002); *Grate v. State*, 750 So. 2d 625 (Fla. 1999).

No motion for rehearing or reinstatement will be entertained by the Court.

A True Copy
Test:

SC2025-0327 3/27/2025

John A. Tomasino
Clerk, Supreme Court
SC2025-0327 3/27/2025



KS
Served:

CASE NO.: SC2025-0327

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4DCA CLERK

BROWARD CLERK

HON. NATASHA DEPRIMO

SHANE KELLEY

LYNN KEUTHAN

CAMERON HERBERT PATRICK WHITE

ROBERT ANDREW WIGHT

IN THE SUPREME COURT OF FLORIDA

LYNN KEUTHAN,)
)
Appellant/Petitioner(s),) Case No. _____
v.) 4th DCA Case Nos.:
) 4D2024-1980; 4D2024-3352
GLENN KEUTHAN,) L.T. Case No.: PRC170004497
WENDY KEUTHAN,)
SHANE KELLEY,)
CAMERON WIGHT)
)
Appellee/Respondent(s).)
_____ /)

PETITION FOR WRIT OF MANDAMUS

COMES NOW the Petitioner, Lynn Keuthan, and files this 'Petition For Writ of Mandamus' directed to the Clerk of the Fourth District Court of Appeals, and for grounds would state:

1. This Petition is filed pursuant to Fla. R. App. P. 9.030(a) (3), Fla. R. App. P. 9.100 and Fla. R. Civ. P. 1.630, and additionally pursuant to Fla. R. App. P. 9.330, Fla. R. App. P. 9.350(c), Fla. R. App. P. 9.110(b), Fla. R. App. P. 9.110(h), Fla. R. App. P. 9.020(h), Fla. R. App. P. 9.110(d), Fla. R. App. P. 9.170(e), Fla. R. App. P. 9.170(b), Fla. R. App. P. 9.170(b)(5), Fla. R. App. P. 9.170(b)(15), Fla. R. App. P. 9.170(b)(22), Fla. R. App. P. 9.170(b)(23), Fla. R. App. P. 9.330(a)(2)(D), The Fourteenth Amendment of the U.S.

Constitution, The Fifth Amendment of the U.S. Constitution, and Article One, Section Nine of the Florida Constitution.

JURISDICTION

2. Fla. R. App. P. 9.030(a)(3), Fla. R. App. P. 9.100 and Fla.

R. Civ. P. 1.630 provide as follows:

Florida Rules of Appellate Procedure:

“RULE 9.030. JURISDICTION OF COURTS

(a) Jurisdiction of the Supreme Court of Florida.

(3) Original Jurisdiction. The supreme court may issue writs of prohibition to courts and all writs necessary to the complete exercise of its jurisdiction ...”

“RULE 9.100. ORIGINAL PROCEEDINGS

(a) Applicability. This rule applies to those proceedings that invoke the jurisdiction of the courts described in rules 9.030(a)(3), (b)(2), (b)(3), (c)(2), and (c)(3) for the issuance of writs of mandamus ...”

Florida Rules of Civil Procedure:

“RULE 1.630. EXTRAORDINARY REMEDIES

(a) Applicability. This rule applies to actions for the issuance of writs of mandamus ...”

STATEMENT OF FACTS

3. The underlying probate case and related Trust Case were completely settled with a Settlement Agreement adopted by all parties and their counsel and read into the record on December 8, 2023, which completely settled all matters in regard to both

cases. (App.5-17)

4. A joint motion adopting the Settlement Agreement was filed in the underlying trial court on January 9,2024 and an order was entered on January 9,2024 approving the Settlement Agreement and directing all parties to abide by all terms of the Settlement Agreement. (App.5-20)

5. Opposing attorney Robbie Wight sought to bypass compliance with the term of the Settlement Agreement requiring all parties to dismiss all petitions in the related Trust Case, and refused to sign a joint stipulation of dismissal, which would have allowed him and his client to comply with this term of the Settlement Agreement.

6. Opposing attorney Robbie Wight sought to avoid compliance with this term of the Settlement Agreement and sought to get his hands on his client's distribution without complying with this term of the Settlement Agreement by attempting to obtain and file signed FLSSI waivers from other parties in order to get a distribution before he had complied with all terms of the Settlement Agreement.

7. Appellee attorney Robbie Wight filed a bad faith motion

for order to show cause against the Appellant, attempting to have the Appellant sign and file a FLSSI waiver before all terms of the Settlement Agreement had been complied with – in pertinent part, before he had complied with the requirement for him and his client to dismiss all petitions in the related Trust Case.

8. Appellee attorney Robbie Wight essentially went into court twice ex-parte and tried to, in bad faith, ask the court to find the Appellant to be in contempt when he was the one not complying the Settlement Agreement that had been adopted by all parties and their counsel (including him) and approved by the court.

9. Further, appellee attorney Robbie Wight, and appellee Shane Kelley, made spontaneously requests that were not noticed for hearing, asking the court to make multiple rulings on matters not noticed for hearing, resulting in a July 2,2024 order and a July 7,2024 order, both in violation of due process rights, in violation of Florida statutes and law, and in violation of the terms of the January 9,2024 court-approved Settlement Agreement.

10. Appellant filed timely motions for rehearing in regard to both the July 2,2024 order and the July 7,2024 order and also timely filed a notices of appeal of both orders on August 1,2024, the

first being an appealable order under Fla. R. App. P. 9.170(b), Fla. R. App. P. 9.170(b)(5), Fla. R. App. P. 9.170(b)(15), Fla. R. App. P. 9.170(b)(22), and Fla. R. App. P. 9.170(b)(23), and the second being an appealable order under Fla. R. App. P. 9.170(b), Fla. R. App. P. 9.170(b)(5), and Fla. R. App. P. 9.170(b)(23). (App.23-49)

11. The Fourth District Court of Appeal held the appeal in abeyance for several months while requesting status reports from the Appellant and Appellee in regard to outstanding motions tolling rendition.

12. In his status reports to the Fourth District Court of Appeals, appellee attorney Robbie Wight acknowledged the outstanding motions tolling rendition.

13. The trial court then entered two additional final, appealable orders on August 21,2024 and October 16,2024, the first appealable under Fla. R. App. P. 9.170(b), Fla. R. App. P. 9.170(b)(5), and Fla. R. App. P. 9.170(b)(22), and the second appealable under Fla. R. App. P. 9.170(b), Fla. R. App. P. 9.170(b)(5), and Fla. R. App. P. 9.170(b)(23). (App.52-53,89-92)

14. Appellant filed timely motions for rehearing on September 5,2024 and on October 31,2024, respectively, timely requesting

rehearing.

15. Appellant also filed timely amended notices of appeal on September 9, 2024 and on November 15, 2024, respectively, timely filing notices of appeal in regard to both new final, appealable orders. (App. 54-88, 93-131)

16. On December 10, 2024, appellee Shane Kelley filed a motion to dismiss the part of the appeal reviewing the two new orders being appealed, claiming, wrongly, that Fla. R. App. P. 9.170(e) does not allow for the timely filing of an amended notice of appeal to include a new final, appealable order in an existing appeal. (App. 132-137)

17. On December 26, 2024, the Appellant filed a new notice of appeal, once again timely noticing the appeal of the two new final, appealable orders, which both have motions for rehearing tolling rendition. (App. 140-148)

18. Despite the Appellant timely filing notices of appeal twice, via two available procedures under the Florida Rules of Appellate Procedure, and timely filing a response to appellee Shane Kelley's motion to dismiss, clearly laying out the facts and law in regard to the full compliance with the Florida Rules of Appellate Procedure,

the Fourth District Court of Appeal improperly entered orders of dismissal for both the prior existing appeal and the new appeal on January 10,2025. (App.149-166,167-168,16-170)

19. On January 27,2025, the Appellant timely filed a 'Motion for Rehearing, for Clarification, for Certification, and for Written Opinion Regarding Orders of Dismissal,' further detailing the facts and appropriate supporting Florida Rules of Appellate Procedure and supporting Florida and U.S. Constitutional law in regard to each of the timely notices of appeal of appealable orders under the Florida Rules of Appellate Procedure. (App.171-191,192-212)

20. On February 26,2025, the Fourth District Court of Appeal entered orders denying the motion for rehearing in regard to both appeals, without explanation and without addressing Appellant's motions for clarification, for certification, and for written opinion. Appellant hereby files a Petition For Writ of Mandamus in The Supreme Court of Florida requesting an order directing the Fourth District Court of Appeal to comply with it's ministerial duties. (App.232)

RELIEF SOUGHT

21. The Petitioner seeks a Writ of Mandamus directing the Fourth District Court of Appeals to issue a written opinion in Fourth District Court of Appeals Case Nos. 4D2024-1980 and 4D2024-3352, for which the Fourth District Court of Appeal issued a single order on January 10, 2025 dismissing both appeals, and for which Appellant requested consolidation as emanating from the same lower tribunal case and both involving the July 2, 2024 order and related orders on appeal, and, therefore, involving the same facts and law. (App.167-168, 16-170, 140-148)

22. The Petitioner previously made a request to the Fourth District Court of Appeals for a written opinion in Petitioner/Appellant's 'Motion for Rehearing, for Clarification, for Certification, and for Written Opinion Regarding Orders of Dismissal,' filed on January 27, 2025. (App.171-191, 192-212)

23. The Clerk of the Fourth District Court of Appeals issued an order on February 26, 2025 denying Appellant's Motion For Rehearing, but failing to respond to Appellant's included Motions for Clarification, for Certification, and for Written Opinion Regarding Orders of Dismissal.' (App.232)

24. The Fourth District Court of Appeals is required to perform their ministerial duty to provide a written opinion.

25. A written opinion is necessary in order to preserve Petitioner's right to an appeal pursuant to Fla. R. App. P. 9.030(a)(1)(A)(ii) and Fla. R. App. P. 9.110 and/or Fla. R. App. P. 9.030(a)(2)(A)(iv), Fla. R. App. P. 9.120 and Fla. R. App. P. 9.120(d), and pursuant to:

Fla. R. App. P. 9.330,
Fla. R. App. P. 9.350(c),
Fla. R. App. P. 9.110(b),
Fla. R. App. P. 9.110(h),
Fla. R. App. P. 9.020(h),
Fla. R. App. P. 9.110(d),
Fla. R. App. P. 9.170(e),
Fla. R. App. P. 9.170(b),
Fla. R. App. P. 9.170(b)(5),
Fla. R. App. P. 9.170(b)(15),
Fla. R. App. P. 9.170(b)(22),
Fla. R. App. P. 9.170(b)(23),
Fla. R. App. P. 9.330(a)(2)(D),
The Fourteenth Amendment of the U.S. Constitution,
The Fifth Amendment of the U.S. Constitution, and
Article One, Section Nine of the Florida Constitution,

and there is no adequate remedy at law to preserve this fundamental constitutional right of the Petitioner without the Fourth District Court of Appeals performing their ministerial duty to provide a written opinion.

ARGUMENT AND CITATIONS TO AUTHORITY

26. Appellant requests a Writ of Mandamus compelling the Fourth District Court of Appeal to issue a written opinion in regard to its January 10, 2025 Order of Dismissal of both cases and its February 26, 2025 Order Denying Appellant's 'Motion for Rehearing, for Clarification, for Certification, and for Written Opinion Regarding Orders of Dismissal' in Fourth District Court of Appeals Case Nos. 4D2024-1980 and 4D2024-3352 in order to address the following potential and significant questions for Certiorari review.

QUESTIONS FOR CERTIORARI REVIEW:

I. Can the Fourth District Court of Appeal dismiss a timely filed notice of appeal filed pursuant to Fla. R. App. P. 9.110, Fla. R. App. P. 9.110(a), Fla. R. App. P. 9.110(b), Fla. R. App. P. 9.110(d), Fla. R. App. P. 9.110(h), and Fla. R. App. P. 9.170(b) of appealable orders under Fla. R. App. P. 9.170(b), Fla. R. App. P. 9.170(b)(5), Fla. R. App. P. 9.170(b)(15), Fla. R. App. P. 9.170(b)(22), and Fla. R. App. P. 9.170(b)(23) - in direct conflict with the application of the Florida Rules of Appellate Procedure as promulgated by The Supreme Court of Florida and Florida law and in direct conflict with the application of the Florida Rules of Appellate Procedure and Florida law implemented by other Florida District Courts of Appeal?

II. Can the Fourth District Court of Appeal dismiss a timely filed notice of appeal of an appealable order if the notice of appeal is filed as a timely amended notice of appeal adding a new appealable order to the appeal and when the Fourth District Court of Appeal is in conflict with other district courts of appeal and the supreme court when 1). other district courts of appeal allow timely amended

notices of appeal to add a new order for review and 2). the filing of an amended notice of appeal is consistent with the Florida Rules of Appellate Procedure and consistent with Florida law?

III. Can the Fourth District Court of Appeal dismiss a timely filed notice of appeal filed pursuant to Fla. R. App. P. 9.110(b), Fla. R. App. P. 9.110(h), Fla. R. App. P. 9.020(h), and Fla. R. App. P. 9.110(d) of appealable orders under Fla. R. App. P. 9.170(b) - in direct conflict with the application of the Florida Rules of Appellate Procedure as promulgated by The Supreme Court of Florida and Florida law and in direct conflict with the application of the Florida Rules of Appellate Procedure and Florida law implemented by other Florida District Courts of Appeal?

IV. Can the Fourth District Court of Appeal use Fla. R. App. P. 9.170(e) to dismiss a timely filed notice of appeal of appealable orders - in direct conflict with the application of the Florida Rules of Appellate Procedure as promulgated by The Supreme Court of Florida and Florida law and in direct conflict with the application of the Florida Rules of Appellate Procedure and Florida law implemented by other Florida District Courts of Appeal?

V. Can an opposing attorney have a pro-se' litigant's appeal dismissed without any valid legal basis under the Florida Rules of Appellate Procedure?

Certiorari Review Question I:

I. Can the Fourth District Court of Appeal dismiss a timely filed notice of appeal filed pursuant to Fla. R. App. P. 9.110, Fla. R. App. P. 9.110(a), Fla. R. App. P. 9.110(b), Fla. R. App. P. 9.110(d), Fla. R. App. P. 9.110(h), and Fla. R. App. P. 9.170(b) of appealable orders under Fla. R. App. P. 9.170(b), Fla. R. App. P. 9.170(b)(5), Fla. R. App. P. 9.170(b)(15), Fla. R. App. P. 9.170(b)(22), and Fla. R. App. P. 9.170(b)(23) - in direct conflict with the application of the Florida Rules of Appellate Procedure as promulgated by The Supreme Court of Florida and Florida law and in direct conflict with the application of the Florida Rules of Appellate Procedure and Florida law implemented by other Florida District Courts of Appeal?

July 2,2024 Order On Appeal

27. The July 2,2024 order (App.41-44):

A. Improperly authorizes and directs the personal representative to file a FLSSI waiver for the someone, who has not given him permission to file the waiver until all terms of the Settlement Agreement have been completed;

B. Improperly allows the personal representative to make complete distributions to only two of the three beneficiaries and allows him to transfer the distribution of the third beneficiary to a trust account without distributing that distribution to the beneficiary;

C. Erroneously allows an unauthorized person to accept Appellant's distribution and file a receipt of distribution, who has no authorization from the Appellant to accept Appellant's distribution;

D. Improperly allows the personal representative to be discharged (without making the required third distribution);

E. Improperly awards entitlement of attorney's fees to the opposing appellee attorney who has been non-compliant with the Settlement Agreement and who filed a bad faith show cause motion in his attempt to circumvent compliance himself with the Settlement Agreement and in his attempt to try to get his client's distribution without his full compliance with the terms of the Settlement Agreement;

F. Erroneously orders funds to be taken from Appellant's distribution in violation of the terms of the Settlement Agreement, which expressly states that each beneficiary is to receive their complete one-third distribution;

G. Improperly orders entitlement of attorney fees to Appellant's counsel who only attended the show cause hearing in order to withdraw as counsel and without Appellant's counsel even filing any pleading requesting attorney's fees;

H. Violates the trial court's prior January 9,2024 Order Approving

the Settlement Agreement entered into by all parties, which was a final order; and

I. Violates the trial court's January 10, 2024 Order Vacating Defendant's Motion For Summary Judgment in the related Trust Case, which vacating was agreed to by all parties as part of the Settlement Agreement.

28. Based on the foregoing, the July 2, 2024 order is appealable under Fla. R. App. P. 9.170(b), Fla. R. App. P. 9.170(b)(5), Fla. R. App. P. 9.170(b)(15), Fla. R. App. P. 9.170(b)(22), and Fla. R. App. P. 9.170(b)(23), which state, in pertinent part:

"RULE 9.170. APPEAL PROCEEDINGS IN PROBATE AND GUARDIANSHIP CASES

(a) Applicability. Appeal proceedings in probate and guardianship cases will be as in civil cases, except as modified by this rule.

(b) Appealable Orders. Except for proceedings under rule 9.100 and rule 9.130(a), appeals of orders rendered in probate and guardianship cases will be limited to orders that *finally determine a right or obligation of an interested person as defined in the Florida Probate Code*. Orders that finally determine a right or obligation include, but are not limited to, orders that:

(5) grant heirship, succession, entitlement, or determine the persons to whom distribution should be made;

(15) make distributions to any beneficiary;

(22) discharge a fiduciary or the fiduciary's surety;

(23) grant an award of attorneys' fees or costs.
(Emphasis Added.)"

July 7,2024 Order On Appeal

29. The July 7,2024 order (App.45-47):

A. Improperly grants attorney's fees to Appellant's counsel without any pleading having been filed requesting attorney's fees;

B. Erroneously authorizes distribution of funds from Appellant's distribution in violation of the terms of the Settlement Agreement, which expressly states that each beneficiary is to receive their complete one-third distribution; and

C. Violates the trial court's prior January 9,2024 Order Approving the Settlement Agreement entered into by all parties, which was a final order.

30. Based on the foregoing, the July 7,2024 order is appealable under Fla. R. App. P. 9.170(b), Fla. R. App. P. 9.170(b)(5), and Fla. R. App. P. 9.170(b)(23), which state, in pertinent part:

"RULE 9.170. APPEAL PROCEEDINGS IN PROBATE AND GUARDIANSHIP CASES

(a) Applicability. Appeal proceedings in probate and guardianship cases will be as in civil cases, except as modified by this rule.

(b) Appealable Orders. Except for proceedings under rule 9.100 and rule 9.130(a), appeals of orders rendered in probate and guardianship cases will be limited to orders that *finally determine a right or obligation of an interested person as defined in the Florida Probate Code*. Orders that finally determine a right or obligation include, but are not limited to, orders that:

(5) grant heirship, succession, entitlement, or determine the persons to whom distribution should be made;

(23) grant an award of attorneys' fees or costs.
(Emphasis Added.)”

August 21,2024 Order on Appeal

31. The August 21,2024 Order (App.80-81) is an order:

A. Improperly granting the discharge of the personal representative of the estate and releasing the surety on the personal representative's bond from further liability (and erroneously finding that the estate has fully administered and properly distributed);

B. Violating the trial court's prior January 9,2024 Order Approving the Settlement Agreement entered into by all parties, which was a final order; and

C. Violating the trial court's January 10,2024 Order Vacating Defendant's Motion For Summary Judgment in the related Trust Case, which vacating was agreed to by all parties as part of the Settlement Agreement.

32. Based on the foregoing, the August 21,2024 order is appealable under Fla. R. App. P. 9.170(b), Fla. R. App. P. 9.170(b)(5), and Fla. R. App. P. 9.170(b)(22), which state, in pertinent part:

“RULE 9.170. APPEAL PROCEEDINGS IN PROBATE AND GUARDIANSHIP CASES

(a) Applicability. Appeal proceedings in probate and guardianship cases will be as in civil cases, except as modified by this rule.

(b) Appealable Orders. Except for proceedings under rule 9.100 and rule 9.130(a), appeals of orders rendered in probate and guardianship cases will be limited to orders that *finally determine a right or obligation of an interested person as defined in the Florida*

Probate Code. Orders that finally determine a right or obligation include, but are not limited to, orders that:

(5) grant heirship, succession, entitlement, or determine the persons to whom distribution should be made;

(22) discharge a fiduciary or the fiduciary's surety;
(Emphasis Added.)”

October 16,2024 Order on Appeal

33. The October 16,2024 Order (App.121-124) is an order improperly granting attorney's fees and determining the amount of attorney's fees (although expressly subject to the review of the appellate court on appeal), and, more specifically:

A. Improperly grants an award of attorney's fees to the opposing appellee attorney who has been non-compliant with the Settlement Agreement and who filed a bad faith show cause motion in his attempt to circumvent compliance himself with the Settlement Agreement and in his attempt to try to get his client's distribution without his full compliance with the terms of the Settlement Agreement;

B. Improperly grants expert witness attorney's fees taxed as a cost based on the improper granting of attorney's fees to opposing counsel, who was acting in bad faith;

C. Orders funds to be taken from Appellant's distribution in violation of the terms of the Settlement Agreement, which expressly states that each beneficiary is to receive their complete one-third distribution;

D. Violates the trial court's prior January 9,2024 Order Approving the Settlement Agreement entered into by all parties, which was a final order; and

E. Violates the trial court's January 10,2024 Order Vacating Defendant's Motion For Summary Judgment in the related Trust Case, which vacating was agreed to by all parties as part of the Settlement Agreement.

34. Based on the foregoing, the October 16,2024 order is appealable under Fla. R. App. P. 9.170(b), Fla. R. App. P. 9.170(b)(5), and Fla. R. App. P. 9.170(b)(23), which state, in pertinent part:

"RULE 9.170. APPEAL PROCEEDINGS IN PROBATE AND GUARDIANSHIP CASES

(a) Applicability. Appeal proceedings in probate and guardianship cases will be as in civil cases, except as modified by this rule.

(b) Appealable Orders. Except for proceedings under rule 9.100 and rule 9.130(a), appeals of orders rendered in probate and guardianship cases will be limited to orders that *finally determine a right or obligation of an interested person as defined in the Florida Probate Code*. Orders that finally determine a right or obligation include, but are not limited to, orders that:

(5) grant heirship, succession, entitlement, or determine the persons to whom distribution should be made; and

(23) grant an award of attorneys' fees or costs.
(Emphasis Added.)"

July 2,2024, July 7,2024, August 21,2024,and October 16,2024
Appealable Final Orders

35. As shown, the July 2,2024, July 7,2024, August 21,2024, and October 16,2024 orders being appealed are orders

finally determining the rights and/or obligations of interested persons as defined in the Florida Probate Code and are appealable under Fla. R. App. P. 9.170 (b).

36. “Orders that finally determine a right include orders that grant entitlement, or determine the persons to whom distribution should be made ... Orders that finally determine a right or obligation include, but are not limited to, orders that:. . . (5) grant heirship, succession, entitlement, or determine the persons to whom distribution should be made.” Pigna v. Messianu, 3D18-414, October 3, 2018

37. “[1] The August 17 order, though, was an appealable *final* order. Fla. R. App. P. 9.170(b)(3).” (Emphasis Added.) *Anderson v. Estate of Quintero*, 374 So. 3d 67, 69-70 (Fla. Dist. Ct. App. 2022), explicitly stating that an appealable order under Fla. R. App. P. 9.170(b) is, by virtue of inclusion in Fla. R. App. P. 9.170(b)(1-25), a final order.

Timely Notices of Appeal of
July 2,2024, July 7,2024, August 21,2024,and October 16,2024
Appealable Orders and Related Orders

38. Appellant timely filed a notice of appeal on August 1,2024 appealing the July 2,2024 and July 7,2024 orders, and

timely filed amended notices of appeal on September 9,2024 and on November 15,2024 appealing the August 21,2024 and October 16,2024 orders, respectively. (App.23-49,54-88,93-131)

39. All three notices of appeal were timely filed pursuant to Fla. R. App. P. 9.110, Fla. R. App. P. 9.110(a), Fla. R. App. P. 9.110(b), Fla. R. App. P. 9.110(d), and Fla. R. App. P. 9.110(h), which state in pertinent part:

“RULE 9.110. APPEAL PROCEEDINGS TO REVIEW FINAL ORDERS OF LOWER TRIBUNALS

(a) Applicability. This rule applies to those proceedings that:
(1) invoke the appeal jurisdiction of the courts described in rule ... (b)(1)(A);

(b) Commencement. Jurisdiction of the court under this rule must be invoked by filing a notice with the clerk of the lower tribunal within 30 days of rendition of the order to be reviewed, except as provided in rule 9.140(c)(3).

(d) Notice of Appeal. The notice of appeal must be substantially in the form prescribed by rule 9.900(a). The caption must contain the name of the lower tribunal, the name and designation of at least 1 party on each side, and the case number in the lower tribunal. The notice must contain the name of the court to which the appeal is taken, the date of rendition, and the nature of the order to be reviewed. Except in criminal cases, a conformed copy of the order or orders designated in the notice of appeal must be attached to the notice together with any order entered on a timely motion postponing rendition of the order or orders appealed.

(h) Scope of Review. Except as provided in subdivision (k), the court may review any ruling or matter occurring before filing of the notice. Multiple final orders may be reviewed by a single notice, if

the notice is timely filed as to each such order.”

40. Also, the July 2,2024 and July 7,2024 orders were based on rulings of the court at the same scheduled hearing time and the orders are related and intertwined.

41. The Appellant’s August 1,2024, September 9,2024, and November 15,2024 Notices of Appeal clearly comply with the Florida Rules of Appellate Procedure promulgated by the Supreme Court of Florida and adopted and implemented by other District Courts of Appeal in numerous appeals.

42. The Fourth District Court of Appeal’s dismissal of the timely appeal of these appealable July 2,2024, July 7,2024, August 21,2024, and October 16,2024 orders is in direct conflict with the Supreme Court of Florida and other District Courts of Appeal.

Certiorari Review Question II:

II. Can the Fourth District Court of Appeal dismiss a timely filed notice of appeal of an appealable order if the notice of appeal is filed as a timely amended notice of appeal adding a new appealable order to the appeal and when the Fourth District Court of Appeal is in conflict with other district courts of appeal and the supreme court when 1). other district courts of appeal allow timely amended notices of appeal to add a new order for review and 2). the filing of an amended notice of appeal is consistent with the Florida Rules of Appellate Procedure and consistent with Florida law?

September 9,2024 and November 15,2024
Amended Notices of Appeal

43. Appellant hereby incorporates all facts and arguments under ‘Certiorari Review Question I’ above.

44. Appellant timely filed amended notices of appeal on September 9,2024 and November 15,2024 appealing the August 21,2024 and October 16,2024 orders, respectively, pursuant to Fla. R. App. P. 9.110, Fla. R. App. P. 9.110(a), Fla. R. App. P. 9.110(b), Fla. R. App. P. 9.110(d), Fla. R. App. P. 9.110(h), and Fla. R. App. P. 9.170(b) as shown above. (App.54-88,93-131)

45. The Circuit Court of the 17th Judicial Circuit in and for Broward County, Florida, and the Fourth District Court of Appeal of Florida, both acknowledged that the appeal was timely filed and properly filed in regard to each order being appealed therein by the processing of the amended notices of appeal months ago, and the Fourth District Court of Appeal has issued orders holding the appeal in abeyance pending the trial court addressing outstanding motions tolling rendition.

46. Appellee appears to claim that Appellant filed the amended notices of appeal in the appellate court rather than the underlying trial court. That is inaccurate. All of the notices were

filed in the trial court, including the subsequent amended notices of appeal.

47. However, even if the amended notices of appeal had been filed in the appellate court, even then, Appellee's motion to dismiss would be improper.

48. Even in that case, the remedy would be for this Court to transfer the subsequent notices of appeal to the trial court, rather than dismiss this appeal. Fla. R. App. Proc. 9.040(b)(1) ("If a proceeding is commenced in an inappropriate court, that court will transfer the cause to an appropriate court."); Art. V, § 2(a), Fla. Const. ("The supreme court shall adopt rules for the practice and procedure in all courts including ... the transfer to the court having jurisdiction of any proceeding when the jurisdiction of another court has been improvidently invoked, and a requirement that no cause shall be dismissed because an improper remedy has been sought."). It matters not whether the subsequent notices of appeal were titled as "amended" notices or "new" notices. *See, e.g., id.* at 9.040(c) ("If a party seeks an improper remedy, the cause must be treated as if the proper remedy had been sought"); *Impact Computers & Electronics, Inc. v. Bank of Am., N.A.*, 852 So. 2d 946,

948-49 (Fla. 3d DCA 2003) (holding that if a filing “is mislabeled, the court will look to the substance” of it rather than “the label”).

49. Moreover, even if that had been the case, this Court would retain jurisdiction even now to transfer Appellants’ subsequently filed notices of appeal to the circuit court if this Court determines that the notices should have been (and were not) filed with the circuit court rather than this Court. *Alfonso v. Dep’t of Env’t Regul.*, 616 So. 2d 44, 45, 47 (Fla. 1993) (holding that the district court retained jurisdiction to review an appeal where “the appellant erroneously files a notice of appeal with the district court, rather than the circuit court, and ... the appellant takes no corrective action to file the notice of appeal in the circuit court within thirty days of the rendition of the final judgment”).

50. Clearly, as shown in the Florida Rules of Appellate Procedure, and in the processing of the amended notices of appeal by the Circuit Court of the 17th Judicial Circuit in and for Broward County, Florida, and the Fourth District Court of Appeal of Florida, the Florida Rules of Appellate Procedure clearly allow for the filing and processing of amended notices of appeal.

51. In addition, other Florida District Courts of Appeal have

accepted the addition of newly entered appealable probate orders into cases on appeal through the filing of an Amended Notice of Appeal which adds order(s) for review that were entered/rendered after the initial Notice of Appeal. For example, see *Anderson v. Estate of Quintero*, 374 So. 3d 67, 69 (Fla. Dist. Ct. App. 2022).

52. The Appellant's September 9, 2024 and November 15, 2024 Amended Notices of Appeal clearly comply with the Florida Rules of Appellate Procedure promulgated by the Supreme Court of Florida and adopted and implemented by other District Courts of Appeal in numerous appeals.

53. The Fourth District Court of Appeal's dismissal of the timely appeal of these appealable August 21, 2024 and October 16, 2024 orders is in direct conflict with the Supreme Court of Florida and other District Courts of Appeal.

Certiorari Review Question III:

III. Can the Fourth District Court of Appeal dismiss a timely filed notice of appeal filed pursuant to Fla. R. App. P. 9.110(b), Fla. R. App. P. 9.110(h), Fla. R. App. P. 9.020(h), and Fla. R. App. P. 9.110(d) of appealable orders under Fla. R. App. P. 9.170(b) - in direct conflict with the application of the Florida Rules of Appellate Procedure as promulgated by The Supreme Court of Florida and Florida law and in direct conflict with the application of the Florida Rules of Appellate Procedure and Florida law implemented by other Florida District Courts of Appeal?

New Notice of Appeal of
August 21,2024 and October 16,2024 Orders

54. Appellant hereby incorporates all facts and arguments under ‘Certiorari Review Question I’ and ‘Certiorari Review Question II’ above.

55. In addition, Appellant filed a new notice of appeal on December 26,2024, timely appealing the August 21,2024 and October 16,2024 orders a second time, and noting in the notice of appeal the outstanding September 5,2024 and October 31,2024 motions for rehearing respectively tolling rendition of each order. (App.140-148)

56. The December 26,2024 new Notice of Appeal was filed pursuant to Fla. R. App. P. 9.110, Fla. R. App. P. 9.110(a), Fla. R. App. P. 9.110(b), Fla. R. App. P. 9.110(h), Fla. R. App. P. 9.020(h), Fla. R. App. P. 9.110(d), and Fla. R. App. P. 9.170(b).

57. Florida Rules of Appellate Procedure allow for timely appeals with outstanding motions tolling rendition.

58. Appellant notes that Fla. R. App. P. 9.350(c) requires that “The court shall *not* enter an order of dismissal of an appeal until 15 days after the service of the notice of appeal or until 15 days

after the time prescribed by rule 9.110(b), *whichever is later.*” (Emphasis added.)

59. And rule 9.110(b) states “**Commencement.** Jurisdiction of the court under this rule must be invoked by filing a notice with the clerk of the lower tribunal within 30 days of *rendition* of the order to be reviewed,” (which has not yet occurred.) (Emphasis added.)

60. Fla. R. App. P. 9.020 (h) states, in pertinent part:

“(h) **Rendition of an Order.** An order is rendered when a signed, written order is filed with the clerk of the lower tribunal.

(1) *Motions Tolling Rendition.* The following motions, if authorized and timely filed, toll rendition unless another applicable rule of procedure specifically provides to the contrary:

(B) motion for rehearing;

(2) *Effect of Motions Tolling Rendition.* If any timely and authorized motion listed in subdivision (h)(1) of this rule has been filed in the lower tribunal directed to a final order, the following apply:

(A) the final order will not be deemed rendered as to any existing party until all of the motions are either withdrawn by

written notice filed in the lower tribunal or resolved by the rendition of an order disposing of the last of such motions;

(C) if a notice of appeal is filed before the rendition of an order disposing of all such motions, the appeal must be held in abeyance until the motions are either withdrawn or resolved by the rendition of an order disposing of the last such motion.”

61. Therefore, the orders of dismissal entered on January 10, 2025 do not comply with Fla. R. App. P. 9.350(c), nor with Fla. R. App. P. 9.110(b).

62. The Appellant notes that the Appellees did not file any response to the December 26, 2024 Request For Consolidation, which response was due by January 10, 2025, thereby essentially acknowledging the timely filing of the new December 26, 2024 ‘Notice of Appeal’ and the appropriateness of consolidation with the prior appeal.

63. The Appellant’s December 26, 2024 Notice of Appeal clearly complies with the Florida Rules of Appellate Procedure promulgated by the Supreme Court of Florida and adopted and implemented by other District Courts of Appeal in numerous appeals.

64. The Fourth District Court of Appeal's dismissal of the timely appeal of these appealable August 21,2024 and October 16,2024 orders is again in direct conflict with the Supreme Court of Florida and other District Courts of Appeal.

Certiorari Review Question IV and V:

IV. Can the Fourth District Court of Appeal use Fla. R. App. P. 9.170(e) to dismiss a timely filed notice of appeal of appealable orders - in direct conflict with the application of the Florida Rules of Appellate Procedure as promulgated by The Supreme Court of Florida and Florida law and in direct conflict with the application of the Florida Rules of Appellate Procedure and Florida law implemented by other Florida District Courts of Appeal?

V. Can an opposing attorney have a pro-se' litigant's appeal dismissed without any valid legal basis under the Florida Rules of Appellate Procedure?

Invalid Application of Fla. R. App. P. 9.170(e)

65. Appellant hereby incorporates all facts and arguments under 'Certiorari Review Question I,' 'Certiorari Review Question II,' and 'Certiorari Review Question III' above.

66. Appellee Shane Kelley attempts to use Fla. R. App. P. 9.170(e) as his basis for his motion to dismiss, wherein he requests that the August 21,2024 and October 16,2024 orders on appellate review be removed/dismissed from the appeal because of the Appellant utilizing amended notices of appeal rather than filing

separate new notices of appeal.

67. Fla. R. App. P. 9.170(e) states:

“(e) Scope of Review. The court may review any ruling or matter related to the order on appeal occurring before the filing of the notice of appeal, except any order that was appealable under this rule. Multiple orders that are separately appealable under rule 9.170(b) may be reviewed by a single notice if the notice is timely filed as to each such order.”

68. The clear stated intent of Fla. R. App. P. 9.170(e) is to define the scope of review and ensure that each appealable order is timely appealed.

69. As demonstrated above, each appealable order on appeal was timely appealed.

70. Appellant has only requested review of orders and related matters occurring before each notice of appeal.

71. Therefore, Appellant has fully complied with Fla. R. App. P. 9.170(e) and/or Fla. R. App. P. 9.170(e) is not applicable.

72. Therefore, appellee Shane Kelley’s, and joinder appellee Robbie Wight’s, motion to dismiss is without any legal basis in the Florida Rules of Appellate Procedure.

Timely Appeal Pursuant to Applicable Law of Appealable Orders

73. The appellate court has two processes for adding review

of orders to an appeal:

- 1). Filing an amended notice of appeal, or
- 2). Filing a new notice of appeal and asking for consolidation with the prior appeal.

74. The Appellant has not only complied with the appellate procedures, but has timely filed notices of appeal using each and both processes in regard to both orders that the Appellees are trying to remove from appellate review in their motion to dismiss. So, the Appellant has complied and filed timely notices of appeal of both of these orders twice.

75. Provisions for both of these processes of adding orders for review on appeal are available and the trial court even contains selectable filings for both of these options when submitting filings through the portal.

76. In addition, processing provisions are available for both options, as can be seen in the instant appeals.

77. The Appellant's August 1, 2024, September 9, 2024, November 15, 2024, and December 26, 2024 Notices of Appeal clearly comply with the Florida Rules of Appellate Procedure promulgated by the Supreme Court of Florida and adopted and

implemented by other District Courts of Appeal in numerous appeals.

78. The Fourth District Court of Appeal's dismissal of the timely appeal of these appealable July 2,2024, July 7,2024, August 21,2024, and October 16,2024 orders, and noticed related orders, is in direct conflict with the Supreme Court of Florida and other District Courts of Appeal.

Direct Conflict and Issue of Importance

79. Florida District Courts of Appeal have accepted the addition of newly entered appealable probate orders into cases on appeal through the filing of an Amended Notice of Appeal which adds order(s) for review that were entered/rendered after the initial Notice of Appeal. For example, see *Anderson v. Estate of Quintero*, 374 So. 3d 67, 69 (Fla. Dist. Ct. App. 2022).

80. As shown above and as shown in practice in many Florida appellate cases, other District Courts of Appeal allow for the filing of amended notices of appeal to include additional orders on appeal.

81. If the Fourth District Court of Appeal does not allow for the filing of an Amended Notice of Appeal to accept additional

orders for review that were entered/rendered after the initial Notice of Appeal was filed, then the conflicting interpretation of different District Courts of Appeal of the appeal process under the Florida Rules of Appellate Procedure should be certified as a question of great public interest to The Supreme Court of Florida.

82. If the current language of the Florida Rules of Appellate Procedure is not accurate, or not clear, in allowing the timely filing of notices of appeal by both of these procedures, then this is an issue of great public importance, worthy of clarification by The Supreme Court of Florida.

83. The preservation of the right of a party to an appeal is a matter of great public importance and one of the most fundamental due process rights under the Florida and U.S. Constitutions.

84. The Fourteenth Amendment of the U.S. Constitution provides:

Section 1. . . . “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny any person within its jurisdiction the equal protection of the laws.” U.S. Const. Amend. XIV.

85. The Fifth Amendment of the U.S. Constitution provides in part:

“No person shall be... . denied life, liberty or property without due process of law.” U.S. Const. Amend V.

86. Article One, Section Nine of the Florida Constitution provides that:

“No person shall be deprived of life, liberty or property without due process of law,....”

87. Any citizen’s right to an appeal and review of lower tribunal orders timely noticed for appeal should be recognized as a fundamental due process right under the Florida and U.S. Constitutions in any judicial proceeding involving life, liberty, or property.

88. Review and Clarification would have a great effect on the proper administration of justice.

89. As shown, a written opinion would provide:

- (i) a legitimate basis for supreme court review;
- (ii) an explanation for an apparent deviation from prior precedent;
- and
- (iii) guidance to the parties and lower tribunal when, in this case:
 - a. the issue decided is also present in other cases pending before the court or another another district court of appeal;
 - b. the issue decided is expected to recur in future cases; and

c. there are conflicting decisions on the issue from lower tribunals,”

comporting with Fla. R. App. P. 9.330(a)(2)(D).

Conclusion

90. Appellant timely appealed each and every appealable order pursuant to applicable Florida law, including pursuant to Fla. R. App. P. 9.110, Fla. R. App. P. 9.110(a), Fla. R. App. P. 9.110(b), Fla. R. App. P. 9.110(h), Fla. R. App. P. 9.020(h), Fla. R. App. P. 9.110(d), Fla. R. App. P. 9.170(e), Fla. R. App. P. 9.170(b), Fla. R. App. P. 9.170(b)(5), Fla. R. App. P. 9.170(b)(15), Fla. R. App. P. 9.170(b)(22), Fla. R. App. P. 9.170(b)(23).

91. Each of these four orders and noticed related orders are rightly on appeal.

92. The Appellant’s August 1,2024, September 9,2024, November 15,2024, and December 26,2024 Notices of Appeal clearly comply with the Florida Rules of Appellate Procedure promulgated by the Supreme Court of Florida and adopted and implemented by other District Courts of Appeal in numerous appeals.

93. The Fourth District Court of Appeal’s dismissal of the

timely appeal of these appealable July 2,2024, July 7,2024, August 21,2024, and October 16,2024 orders, and noticed related orders, is in direct conflict with the Supreme Court of Florida and other District Courts of Appeal.

WHEREFORE, the Petitioner requests the Court to issue a Writ of Mandamus directing the Fourth District Court of Appeal to issue written opinions in Fourth District Court of Appeal's Case Nos. 4D2024-1980 and 4D2024-3352, and grant such other and further relief as this court deems reasonable and proper under the circumstances.

Respectfully signed and submitted this 11th day of March, 2025,

/s/ Lynn M. Keuthan

Dr. Lynn M. Keuthan

3320 Hemlock Drive

Falls Church, VA 22042

Telephone: 703-944-5400

E-mail Service:lkeuthan@yahoo.com

Appellant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of March 2025, I electronically filed the foregoing document with the Clerk of the Court using the Florida Courts E-Filing system. I further certify the foregoing document is being served in accordance with Florida Judicial Rule of Administration 2.516 on all persons identified below in the manner specified, either via transmission of Notices of Electronic Filing generated by Florida Courts E-Filing system or in some other authorized manner for any counsel or party who may not receive electronic Notices of Electronic Filing.

By: /s/ Lynn M. Keuthan
Dr. Lynn M. Keuthan

SERVICE LIST

Sent via Notice of Electronic Filing:

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Clerk
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West Palm Beach, FL 33401
via Notice of Filing in 4th DCA

CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that the foregoing petition complies with the font requirements of Florida Rule of Appellate Procedure 9.045(b) and the word limit requirements of Rule 9.100(g).

By: /s/ Lynn M. Keuthan
Dr. Lynn M. Keuthan

**IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT, 110 SOUTH TAMARIND AVENUE, WEST PALM BEACH, FL 33401**

March 12, 2025

LYNN M. KEUTHAN,
Appellant(s)

v.

GLENN KEUTHAN, et al.,
Appellee(s).

CASE NO. - 4D2024-3352

L.T. No. - PRC170004497

BY ORDER OF THE COURT:

ORDERED that Appellant's January 27, 2025 motion for rehearing, clarification, certification, and written opinion is denied.

Served:

Broward Clerk

Shane Kelley

Lynn Keuthan


Wendy L. Keuthan

Cameron Herbert Patrick White

Robert Andrew Wight

SF

I HEREBY CERTIFY that the foregoing is a true copy of the court's order.


LONN WEISSBLUM, Clerk
Fourth District Court of Appeal
4D2024-3352 March 12, 2025



IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT, 110 SOUTH TAMARIND AVENUE, WEST PALM BEACH, FL 33401

February 26, 2025

LYNN KEUTHAN,
Appellant(s)
v.
GLENN KEUTHAN,
Appellee(s).

CASE NO. - 4D2024-1980
L.T. No. - PRC170004497

BY ORDER OF THE COURT:

ORDERED that, upon consideration of Appellee's February 6, 2025 response, Appellant's January 27, 2025 motion for rehearing is denied.

Served:
Shane Kelley
Lynn Keuthan
Wendy L. Keuthan
Cameron Herbert Patrick White
Robert Andrew Wight

TP

I HEREBY CERTIFY that the foregoing is a true copy of the court's order.

Lon Weissblum
2024-1980
LONN WEISSBLUM, Clerk
Fourth District Court of Appeal
4D2024-1980 February 26, 2025



**IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT, 110 SOUTH TAMARIND AVENUE, WEST PALM BEACH, FL 33401**

January 10, 2025

LYNN M. KEUTHAN,
Appellant(s)

v.

GLENN KEUTHAN, et al.,
Appellee(s).

CASE NO. - 4D2024-3352

4D2024-1980

L.T. No. - PRC170004497

BY ORDER OF THE COURT:

ORDERED that, upon consideration of Appellant's December 26, 2024 response, Appellee's December 10, 2024 motions to dismiss are granted, and the above-styled appeal is dismissed. See Fla. R. App. P. 9.170(e). Further,

ORDERED sua sponte that case number 4D2024-3352 is dismissed as untimely filed. See Fla. R. App. P. 9.110(b). Further,

ORDERED that the Appellant's January 3, 2024 motion to consolidate is denied as moot.

Served:
Broward Clerk
Hon. Natasha Deprimo
Shane Kelley
Lynn Keuthan
Wendy L. Keuthan
Cameron Herbert Patrick White
Robert Andrew Wight

TP

I HEREBY CERTIFY that the foregoing is a true copy of the court's order.

Lon Weissblum
4D2024-3352
LONN WEISSBLUM, Clerk
Fourth District Court of Appeal
4D2024-3352 January 10, 2025



**IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT, 110 SOUTH TAMARIND AVENUE, WEST PALM BEACH, FL 33401**

January 10, 2025

LYNN KEUTHAN,
Appellant(s)

v.

GLENN KEUTHAN,
Appellee(s).

CASE NO. - 4D2024-1980

4D2024-3352

L.T. No. - PRC170004497

BY ORDER OF THE COURT:

ORDERED that, upon consideration of Appellant's December 26, 2024 response, Appellee's December 10, 2024 motions to dismiss are granted, and the above-styled appeal is dismissed. See Fla. R. App. P. 9.170(e). Further,

ORDERED sua sponte that case number 4D2024-3352 is dismissed as untimely filed. See Fla. R. App. P. 9.110(b). Further,

ORDERED that the Appellant's January 3, 2024 motion to consolidate is denied as moot.

Served:
Broward Clerk
Hon. Kenneth L. Gillespie
Shane Kelley
Lynn Keuthan
Wendy L. Keuthan
Cameron Herbert Patrick White
Robert Andrew Wight

TP

I HEREBY CERTIFY that the foregoing is a true copy of the court's order.

Lon Weissblum
#D2024-1980
LONN WEISSBLUM, Clerk
Fourth District Court of Appeal
#D2024-1980 January 10, 2025

