

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF  
FLORIDA IN AND FOR THE SECOND DISTRICT OF FLORIDA

**ROBIN SCHWARTZ,**  
Appellant, Petitioner,

v.

**ARMANDO NARGI,**  
Appellee, Respondent.

CASE NO: 2D22-1213  
LEE CIRCUIT  
CASE NO. 11-DR-6603

**RESPONDENT'S RESPONSE TO PETITIONER'S  
MOTION FOR REHEARING EN BANC, ISSUANCE OF WRITTEN  
OPINION OR, ALTERNATIVELY, FOR CERTIFICATION  
OF AN ISSUE OF GREAT PUBLIC IMPORTANCE**

**COMES NOW** Respondent, Armando Nargi Jr, as PRO SE, requests the Second District Court of Appeals to deny Petitioner's Motion for Rehearing En Banc, Issuance of Written Opinion or, Alternatively, For Certification of an Issue of Great Public Importance, the following;

- 1) **Florida Rules of Civil Procedure** 9.331 (c) clearly states: "A party may not request an en banc hearing. A **motion seeking the hearing shall be stricken.**" (bold added). Three times the Petitioner "requests an en banc hearing" beginning with the motions title; 'Petitioner's Motion for Rehearing En Banc...etc" and an additional two times in the

'wherefore' content. Therefore, the Petitioner's motion shall and should be promptly stricken in its entirety.

2) **CASE LAW:** "The Motion for Rehearing and Clarification consists of eight pages which restate the case law and facts contained in appellee's brief. We deny **this motion as improper reargument.**" - *Gainesville Coca-Cola v. Young*, 632 So. 2d 83, 84 (Fla. Dist. Ct. App. 1994) This case law continues; "based on a reasoned and studied professional judgment, that the panel decision in this case is of exceptional importance." Obviously this statement is to satisfy the requirements of Rule 9.331(c)(2). Nothing in the motion, however, even remotely suggests that any issue passed upon in this court's opinion is of exceptional importance." "This motion is totally without merit and we deny it." "We hope that publication of this opinion would deter the type of motion practice...").

"Certainly it is not the function of a petition for rehearing to furnish a medium through which counsel may advise the court that they disagree with its conclusion, to **reargue matters already discussed** in briefs and oral argument and necessarily considered by the court, or to request the court to change its mind as to a matter which has already received the careful attention of the judges, or **to further delay the**

**termination of litigation.”** - *Whipple v State*, 431 So 2d 1011, 1013 (Fla 2DCA 1983) citing *State v. Green*, 105 So.2d 817 (Fla. 1st DCA 1958 -(bold added)

3) Case laws clearly demonstrate the disregard for the Court. The Petitioner’s motion does not ‘fix the situation’. Ten years to the day, December 6, 2012, Judge Adams issued a Final Judgement Order that both parties agreed to sell the marital property on January 18, 2019. On January 10, 2019, Petitioner has initiated and caused all matters since, of over 350 filings. The Final Judgment of Dissolution of Marriage, Judge E. Adams, (December 6, 2012, was to be enforced with the sale of the marital home/property as of January 18, 2019. Petitioner has intentionally and admittedly violated the original Final Judgement and four subsequent orders by Judge Hawthorne, to expedite the sale of said property be refusing to sell and continue to delay. That is nearly four years ago.

4) **FLORIDA BAR:**

“The rehearing rule was never designed as a last ditch procedural device for continues argument or **to stall the issuance of a mandate.**”

(bold added) – Vol.73, No.4, Florida Bar

5) **Motion for Rehearing** makes it the fifth time the Plaintiff used to delay and disregard the Court to mandate and enforce the Final Judgment order. The Plaintiffs breaching of the court orders continues to exhaust the courts time and expense. The Petitioner has resided at the same property, unencumbered, mortgage-free and rent-free since September 12, 2011 when Appellee paid off the home mortgage.

6) **PETITIONER REHASH** - Matters Already Heard in Original Appeal:

- Petitioner's own admission of intentional court violation; "Wife violated the final judgement by removing the home from the market" on or about May 2021 (Petitioner Appeal, page 15)
- Judge Hawthorne did not request the Petitioner to 'assist Armando Nargi' and Petitioner is "not giving him legal advice" about a transcript from a title agent deposition. This is nowhere to be found in the hearing transcript. Petitioner said to the Court when he said: "I gave him a copy of the transcript" (Petitioner's App 241).  
Therefore, Petitioner and her counsel appeared may have gave legal advice to the Defendant.
- Petitioner failed to use proper procedures to request attorney's fees, and without affidavits. Judge Hawthorne allowed an opportunity to do so, under oath. Respondent has only requested

the enforcement of the Final Judgement by any means the Court deems reasonable, including a Special Master, if necessary (AppN 74)

- Petitioner's Original Appeal Page 27 (I): Petitioner who was "pre-judging" when Petitioner said to the Court: "I wasn't expecting you to overrule the exceptions. I was trying to get ahead of it." (AppN 32) lines 11-12.
- Petitioner's Original Appeal Page 35 : Petitioner states "Specifically, she advised Armando Nargi to file a motion to request the court distribute the funds from the sale of the home" This does **NOT** appear anywhere in the March 28, 2022 transcript is this advised to Respondent.

The Petitioner does not fix the fact that she has refused to follow the many court orders and ironically seeks this court for an convenient order to further delay the Final Judgement order of 2012 to fulfill/complete in January 2019.

The Court has not "criticized" anyone and simply stated already known facts to both parties. Petitioner has abused legal efforts to disdain instead of complying with the agreed Final Judgement to sell the property in January 2019.

The only exception importance is the injustice that has been caused to the Appellee/Respondent, Armando Nargi Jr by delaying and not receiving his fair share of the marital home that should have been sold three years and eleven months ago.

Both parties have had proper due process of law for all matters including to enforce the Final Judgement Order since January 2019

**WHEREFORE**, the Appellee/Respondent, ARMANDO NARGI JR, respectfully requests the Appellate Court;

- 1) Petitioner's Motion shall be stricken in accordance with Florida Rules of Appellant Procedure 9.331(c)
- 2) Uphold Second District Court of Appeal Order of November 22, 2022
- 3) Sanctions to Plaintiff for Filing a Deficient Motion for Rehearing, etc.
- 4) Vacate Petitioner's Attorney's Court Costs and Fees

<b>CERTIFICATE OF SERVICE</b>
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**I CERTIFY** a copy of the above and foregoing has been filed through the Florida Courts E Filing portal. In light of Florida Supreme Court administrative order AOSC 13-49 dated October 9, 2013, PRO SE is relying upon the portal to comply with service requirements under Fla. R.

Gen. Prac. & Jud. Admin 2.516 by service to Robin Schwartz, 15270 Cricket Lane, Fort Myers FL 33919 via E-Portal. The Honorable Amy R. Hathorne, Lee County Justice Center, 1700 Monroe St., Fort Myers, FL 33901; and Gus Simmons, Esq., 2080 McGregor Blvd., Suite 300, Fort Myers, Florida 33901, at gus@oslegallgroup.com via E-Portal. this 6<sup>th</sup> day of December 2022.

**ARMANDO NARGI JR, pro se, Appellee / Respondent**

/s/ Armando Nargi Jr

iloveleecounty@gmail.com

65 Merrimon Ave #1063, Asheville NC 28801

Phone: 239-822-5157

<b>CERTIFICATE OF COMPLIANCE</b>
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**I CERTIFY** that this Petition is formatted in Arial 14-point font, in compliance with Fla. R. App. P. 9.210(a)(2) and is in compliance with all the Florida Rules of Appellate Procedure.

**/s/Armando Nargi Jr**

Armando Nargi, pro se