

IN THE DISTRICT COURT OF APPEAL  
FIRST DISTRICT, STATE OF FLORIDA

GEORGE W. BUSH and  
RICHARD CHENEY,

Petitioners,

v.

Case No. 1D00-4686

HARRY N. JACOBS and  
JOHN and JANE DOES 1-NNN,

Respondents.

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**PETITIONERS' MOTION FOR REHEARING/REHEARING EN BANC,  
OR CERTIFICATION TO THE SUPREME COURT OF FLORIDA  
AS A MATTER OF GREAT PUBLIC IMPORTANCE**

In accordance with Art. V, § 3(b)(4), Fla. Const., and Fla. R. App. P. 9.330 and 9.331, Petitioners move for a rehearing en banc in order to maintain uniformity in the decisions of the District Court of Appeal, First District, and in addition, because the case is of exceptional importance. Alternatively, Petitioners request certification of the case to the Supreme Court of Florida as a matter involving great public importance.

The Second Judicial Circuit now has before it two separate cases, number 00-2808 and 00-2816, each seeking a determination that Al Gore received more votes in the presidential election in the State of Florida than George W. Bush. In the later numbered case, Judge Nikki Clark denied transfer and consolidation of

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FIRST DISTRICT

her case with the earlier filed case. On November 29, 2000, this Court denied the petition for writ of certiorari seeking reversal of that decision.

This Court should grant rehearing en banc to maintain uniformity of decisions in light of *Holiday Inns, Inc. v. Spevak*, 639 So.2d 1110 (Fla. 1<sup>st</sup> DCA 1994), and *U-Haul Company of Northern Florida, Inc. v. White*, 503 So.2d 332 (Fla. 1<sup>st</sup> DCA 1986). Respectfully, the order denying certiorari is inconsistent with *Spevak* and *U-Haul*. The possibility of contradictory rulings arising from 00-2808 and 00-2816, both involving the same essential relief, is palpable.

Additionally, this Court should grant rehearing en banc because the case presents matters of exceptional importance. Under 3 U.S.C. § 1-6 (2000), the State of Florida has solemn, mandatory duties to appoint presidential electors within a prescribed period of time. Inconsistent results in these two cases could dramatically impede or even prevent the State from performing its legal duties under federal law.

Should the Court deny rehearing en banc, Petitioners request that it certify the cause as a matter of great public importance to the Supreme Court of Florida. For the reasons noted above, these two election contests, seeking precisely the same relief, should be handled expeditiously and in a manner that will prevent the possibility of contradictory results. Inefficiency in the process could result in the State's failure to comply with federal duties, or even the disenfranchisement of

Florida voters. For all of the above reasons, Petitioners request that the Court grant rehearing en banc, or alternatively, certify this cause to the Supreme Court of Florida as a matter involving great public importance.

**COUNSEL CERTIFICATION**

I express a belief, based on a reasoned and studied professional judgment, that the panel decision is of exceptional importance.

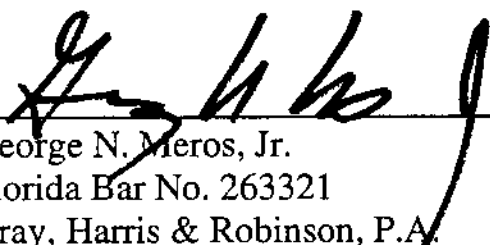
I express a belief, based on a reasoned and studied professional judgment, that the panel decision is contrary to the following decisions of this court and that a consideration by the full court is necessary to maintain uniformity of decisions in this court:

*Holiday Inns, Inc. v. Spevak*, 639 So.2d 1110 (Fla. 1<sup>st</sup> DCA 1994)

*U-Haul Company of Northern Florida, Inc. v. White*, 503 So.2d 332 (Fla. 1<sup>st</sup> DCA 1986)

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was delivered via fax and U.S. Post to the following:

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