

IN THE SUPREME COURT OF FLORIDA

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CASE NO.: SC06-2491  
Lower Tribunal No.: 4D05-4870

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JEWS FOR JESUS, INC.,

Petitioner,

v.

EDITH RAPP,

Respondent.

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**PETITIONER'S RESPONSE IN OPPOSITION TO  
RESPONDENT'S MOTION FOR REHEARING**

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Petitioner, by and through counsel and pursuant to Fla. R. App. P. 9.330, submits this response in opposition to Respondent's motion for rehearing.

**ARGUMENT**

Respondent has moved for a rehearing on a matter that was not heard in the first place. Instead, Respondent asks this Court to correct a mistake allegedly made by the court of appeals. The motion should therefore be denied.

Fla. R. App. P. 9.330 governs motions for rehearing. The Rule expressly provides: “A motion for rehearing shall state with particularity the points of law or fact that, in the opinion of the movant, *the court* has overlooked or misapprehended in its decision, *and shall not present issues not previously raised in the proceeding.*” *Id.* (emphasis added). Respondent nowhere states any point of law or fact that this Court overlooked or misapprehended, and freely presents issues never previously raised in this proceeding. She thus violates Rule 9.330 in several different ways.

The single issue certified to this Court was: Does Florida recognize the tort of false light invasion of privacy, and if so, are the elements of the tort set forth in section 652E of Restatement (Second) of Torts? (A. 11). But Respondent’s motion for rehearing asks the Court to declare that her claim for defamation is valid and that her “claims for negligent training and supervision also be reinstated.” *See* Respondent’s Motion at 2-3. These issues were simply not before the Court, and Respondent’s motion is therefore wholly improper. *See, e.g., Cleveland v. State*, 887 So.2d 362 (Fla. 5th DCA 2004); *Jaworski v. State*, 804 So.2d 415 (Fla. 4th DCA 2001).

Petitioner submits that these arguments are untimely and inappropriate before any court at this late date, but to the extent the arguments should be

considered on their merits, they should be considered by the court of appeals or the district court. They are entirely improper before this Court, especially when raised by the procedural device of a motion for rehearing.

WHEREFORE, Petitioner prays that the Court deny Respondent's motion for rehearing, and for such other and further relief to which it may be entitled.

Respectfully submitted,

/s/ Mathew D. Staver

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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **PETITIONER'S RESPONSE IN OPPOSITION TO RESPONDENT'S MOTION FOR REHEARING** was delivered via first class U.S. mail, postage prepaid, to the following counsel of record on this 19<sup>th</sup> day of November, 2008:

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