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IN THE SUPREME COURT OF FLORIDA

PROFULLA CHANDRA SINGH, et al.,

Petitioner,

ORIGINAL

vs.

CASE NO.: SC13-1303

**SHIRLEY GREEN and CHARLES
WILLIAM GREEN, et al.,**

Respondents.

_____ /

ON APPEAL FROM DISTRICT COURT OF APPEAL
FIFTH DISTRICT OF THE STATE OF FLORIDA

LT CASE NO: 5D13-1940

RESPONDENT'S REPLY BRIEF ON JURISDICTION

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TABLE OF CONTENTS

Table of Contents	i
Table of Authorities	ii
Preliminary Statement	1
Statement of the Case and Facts	2
Summary of the Argument	4
Argument	5
THE PETITIONER HAS NOT SET FORTH ANY BASIS TO INVOKE	
THE DISCRETIONARY JURISDICTION OF THIS COURT.	
Conclusion	6
Certificate of Service	7
Certificate of Type and Font	7

TABLE OF AUTHORITIES

<u>CASES:</u>	<u>Pages:</u>
<i>EHQF Trust v. S & A Capital Partners, Inc.</i> , 947 So.2d 606 (Fla. 4th DCA 2007)	2, 3, 4
<i>Paul Lyndon Johnson v. Ursula M. Mitchell, Trustee, et al.</i> , 5D03-2434 (Fla. 5th DCA 2004).	4
<i>Jenkins v. State</i> , 385 So.2d 1356 (Fla. 1980).	4
<u>RULES:</u>	
Fla. R. App. P. 9.030 (2)	4
<u>CONSTITUTION:</u>	
Art. V, §3, Fla. Const.	3, 4

PRELIMINARY STATEMENT

The Respondent's Reply Brief on Jurisdiction is accompanied by an Appendix. The Appendix is referenced herein by the letter "A" and followed by document number. For example, A-6 refers to document number six (6) in the Appendix.

The Petitioner, PROFULLA SINGH AS SUCCESSOR TRUSTEE FOR 4EACHOTHER TRUST, is the Plaintiff in the lower Circuit Court and Appellant in the lower District Court. The Petitioner is referred to herein as the "Petitioner" and/or "Mr. Singh."

The Respondents represented by undersigned counsel are NAOMI J. ARMISTEAD and JODI M. ARMISTEAD, who are Defendants in the lower Circuit Court and Appellees in the lower District Court. The Respondents are referred to herein as the "Respondents."

STATEMENT OF THE CASE AND FACTS

This matter rises from the Seventh Circuit Court, in and for Putnam County, Florida, and centers on a dispute over a parcel of property of relatively small value. The Petitioner herein executed a settlement agreement wherein the subject property would be sold for a maximum of eighty thousand dollars (\$80,000.00). (A-2; A-3).

The Petitioner, represented by Mr. Singh who is a Trustee of the Petitioner Trust and a non-attorney, entered pleadings and made arguments in the lower Circuit Court. (A-3; A-5). Mr. Singh argued the executed settlement agreement was void and/or voidable, on the premise that a former Trustee to the Petitioner Trust changed her mind after executing the settlement agreement. (A-3; A-5). After extensive litigation between 2008 and 2013, the Circuit Court upheld said settlement agreement as enforceable and further ordered the same enforced. (A-3).

Mr. Singh, representing the Petitioner Trust as a non-lawyer, then made a motion in the Circuit Court to disqualify the Circuit Court judge, which was denied. (A-5; A-6).

Mr. Singh, representing the Petitioner Trust as a non-lawyer, then filed a motion and amended motion for rehearing in the Circuit. (A-7; A-8). The Circuit Court has not as of yet heard or ruled on the Petitioner's motion(s) for rehearing.

Mr. Singh, representing the Petitioner Trust as a non-lawyer, then appealed to Florida's Fifth District Court of Appeal for a Writ of Prohibition and Motion to

Stay the Circuit Court. (A-9).

Without any action by the Respondents, the Fifth District dismissed the Petition for Writ and struck the Motion to Stay, citing *EHQF Trust v. S & A Capital Partners, Inc.*, 947 So. 2d 606 (Fla. 4th DCA 2007). (A-10).

Section 454.23, Florida Statutes (2006), prohibiting the unlicensed practice of law, provides no exception for representation of a trust. Although Florida has not previously addressed the issue, other states have concluded that a trustee cannot appear pro se on behalf of the trust, because the trustee represents the interests of others and would therefore be engaged in the unauthorized practice of law.

* * * * *

It is therefore ordered that this appeal will be dismissed unless appellant files an amended notice of appeal signed by an attorney licensed to practice law[.]

Mr. Singh, representing the Petitioner Trust as a non-lawyer, then filed a motion for rehearing in the Fifth District Court of Appeal, which was denied. (A-11; A-12).

Mr. Singh, representing the Petitioner Trust as a non-lawyer, now appeals to this Supreme Court for discretionary conflict certiorari review. (A-1).

SUMMARY OF THE ARGUMENT

The Petitioner has failed to set forth any basis for this Court exercising its discretionary review powers provided for in Article V, Section 3 of Florida's Constitution. The lower court has not issued an opinion conflicting with *EHQF Trust v. S & A Capital Partners, Inc.*, 947 So. 2d 606 (Fla. 4th DCA 2007). Nor has any court certified any question as one of great public importance.

The Petitioner in his Brief on Jurisdiction claims there is conflicting case law between *EHQF Trust v. S & A Capital Partners, Inc.*, 947 So. 2d 606 (Fla. 4th DCA 2007) and *Paul Lyndon Johnson v. Ursula M. Mitchell Trustee, et al.*, 5D03-2434 (Fla. 5th DCA 2003).

The case cited by the Petitioner as conflicting to invoke this Court's discretionary jurisdiction was *per curiam* affirmed. *Id.*

This Court has made clear:

[T]he Supreme Court of Florida lacks jurisdiction to review per curiam decisions of the several district courts of appeal of this state rendered without opinion, regardless of whether they are accompanied by a dissenting or concurring opinion, when the basis for such review is an alleged conflict of that decision with a decision of another district court of appeal or of the Supreme Court.

Jenkins v. State, 385 So.2d 1356, 1359 (Fla. 1980).

Though the Petitioner claims there is a conflict of some sort between an order entered in *Paul Lyndon Johnson v. Ursula M. Mitchell Trustee, et al.*, 5D03-2434 (Fla. 5th DCA 2003) and *EHQF Trust v. S & A Capital Partners, Inc.*, 947 So. 2d 606 (Fla. 4th DCA 2007), the lower court in this case, adopted *EHQF* in ruling that the Petitioner cannot represent a trust in court proceedings because he is not an attorney. As such there is no conflict nor certified question from the lower court.

Further, there is no jurisdiction of this Court since the lower court's decision

does not fit in to the discretionary jurisdictional criteria set forth in Fla. R. App. P.

9.030 (2) and Art. V, § 3, Fla. Const.

CONCLUSION

The Petitioner has failed to present any certified question, issue or conflict, which would invoke the discretionary jurisdiction of this Court. The Petitioner's Petition for Discretionary Review should be denied.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been sent by U.S. mail to Profulla Chandra Singh, as Successor Trustee for 4EACHOTHER TRUST, 11810 S.E. 55th Ave., Belleview, Florida 34420, this 25th day of July, 2013.



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CERTIFICATE OF TYPE AND FONT

I HEREBY CERTIFY, pursuant to Rule 9.210(a), Fla. R. App. P., the foregoing is prepared in 14-point Times New Roman font.



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