

**SIXTH DISTRICT COURT OF APPEAL
STATE OF FLORIDA**

Case No. 6D2023-1940
Lower Tribunal No. 2018-CA-000160-O

WAL-MART STORES EAST, L.P.,

Appellant,

v.

DOROTHY WYNN,

Appellee.

Appeal from the Circuit Court for Orange County.
A. James Craner, Judge.

July 10, 2026

ON MOTION TO WITHHOLD ISSUANCE OF MANDATE

PER CURIAM.

Appellant's motion to withhold issuance of mandate, docketed April 6, 2026, is denied.

WOZNIAK and MIZE, JJ., concur.
SMITH, J., dissents, with opinion.

SMITH, J., dissents.

I respectfully dissent to the majority's denial of Appellant's motion to withhold issuance of mandate. In Appellant's motion and Appellee's response, both parties agree upon the factors for this Court to consider: "Factors to be considered are the likelihood that jurisdiction will be accepted by the supreme court, the likelihood of ultimate success on the merits, the likelihood of harm if no stay is granted, and the remediable quality of any such harm." Fla. R. App. P. 9.120 committee note to 1977 amendment. For the reasons fully expressed in my concurrence in *Crececius v. Rizzitano*, 430 So. 3d 268, 280 (Fla. 6th DCA 2026), which is reiterated in small part in my concurrence in result in this case, I believe upon consideration of the above listed factors that withholding issuance of the mandate would be appropriate in this case. I would grant Appellant's motion and withhold issuance of the mandate pending the Florida Supreme Court's determination of whether to invoke jurisdiction to review the decision in this case.

Jack R. Reiter, Sydney M. Feldman, and Lucia, L. Leoni, of GrayRobinson, P.A., Miami, for Appellant.

Brian J. Lee, of Morgan & Morgan, Jacksonville, for Appellee.