

In the Florida Supreme Court

MRI ASSOCIATES OF TAMPA,
INC., d.b.a. Park Place MRI,

Petitioner,

vs.

Fla. S. Ct. Case No. SC18-1390

STATE FARM MUTUAL
AUTO. INS. CO.,

Fla. 2d DCA Case No. 2D16-4036

Respondent.

**PETITIONER'S MOTION TO FILE CORRECTED AMENDED INITIAL BRIEF
TO CORRECT SCRIVENER'S ERROR**

Pursuant to Florida Rule of Appellate Procedure 9.300, the Petitioner, MRI Associates of Tampa, Inc., doing business as Park Place MRI, hereby moves to file a corrected amended initial brief, to correct a scrivener's error on page 12 of "Petitioner's Amended Initial Brief on the Merits," and states:

1. On page 12 of "Petitioner's Amended Initial Brief on the Merits," all references to subsection "(5)(a)" of Section 627.736, Florida Statutes (2008-2011) should instead refer to subsection "(5)(a)2," as follows:

First, the permissive nature of the fee schedule method described in the 2008-2011 version of (5)(a)2 remains unchanged in the 2012-2019 version of section (5)(a)1. Former (5)(a)2 stated that "[t]he insurer *may* limit reimbursement to 80 percent of the following schedule of maximum charges" and the current (5)(a)1 still says the exact same thing. In *Virtual III*, this Court found the use of the word "may" in former (5)(a)2 was "clearly permissive" and gave insurers a "choice" to limit reimbursements based on the fee schedule method "or" to continue using the fact-dependent method. *Virtual III*, 141 So.3d at 156-157. Based on the permissive nature of the new fee schedule method, this Court held "the insurer must clearly and unambiguously elect the permissive payment methodology in order to rely on it." *Id.* at 158. Despite being renumbered from (5)(a)2 to (5)(a)1, the statutory permissive language which led this Court to require PIP insurers to clearly and unambiguously "elect" the fee schedule method remains intact and unchanged.

2. Oral argument is scheduled to occur on May 6, 2020.

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3. As suggested in this Court's order dated April 23, 2020, and in an abundance of caution to avoid misunderstanding or confusion, the Petitioner respectfully requests leave to file the proposed "corrected" amended initial brief on the merits, which is being filed simultaneously with this motion. The only changes contained in the proposed "corrected" brief: (a) citations to "(5)(a)2" on page 12, (b) the certificate of service now includes counsel for amici curiae who appeared in this case after the original amended initial brief was filed, and (c) the table of authorities reflects new page citations corresponding to the foregoing changes.

4. This motion is being filed in good faith, and no party will be prejudiced if this motion is granted.

WHEREFORE, the Petitioner respectfully requests leave to file the proposed "corrected" amended initial brief on the merits, which is being filed simultaneously with this motion.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy hereof was **Electronically Filed** with the Clerk of the Court, and **Electronically Served** on the following persons on this 23rd day of April, 2020:

Counsel for State Farm Mutual Automobile Insurance Company:

- Chris W. Altenbernd, Esq. (Email: caltenbernd@bankerlopez.com; service-caltenbernd@bankerlopez.com; amercado @bankerlopez.com), Banker Lopez Gassler, P.A., 501 E. Kennedy Blvd., Suite 1700, Tampa, FL 33602;
- D. Matthew Allen, Esq. (Email: mallen@cfjblaw.com; ejones@cfjblaw.com), Carlton Fields, P.A., 4221 West Boy Scout Blvd., Suite 1000, Tampa, FL 33607;
- Marcy Levine Aldrich, Esq. (Email: marcy.aldrich@akerman.com; debra.atkinson@akerman.com), and Nancy A. Copperthwaite, Esq. (nancy.copperthwaite@akerman.com), Akerman LLP, 98 Southeast Seventh Street, Suite 1100, Miami, FL 33131;
- Kenneth P. Hazouri, Esq. (Email: kph47@dbksmn.com; Secondary Email: lquezada@dbksmn.com), de Beaubien Knight, Simmons, Mantzaris & Neal, LLP, 332 N. Magnolia Ave., Orlando, FL 32801;

Counsel for Amicus Curiae Florida Medical Association:

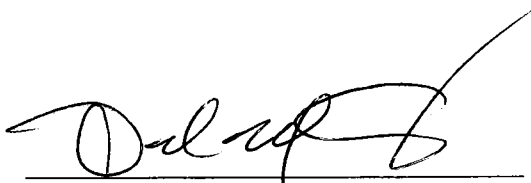
- Edward H. Zebersky, Esq. (Email: ezebersky@zpllp.com), Zebersky Payne, LLP, 110 S.E. 6th St., Suite 2150, Ft. Lauderdale, FL 33301;
- Lawrence M. Kopelman, Esq. (Email: lmk@kopelblank.com), Lawrence M. Kopelman, P.A., One West Las Olas Blvd., Suite 500, Ft. Lauderdale, FL 33301;

Counsel for Amicus Curiae Floridians for Fair Insurance, Inc.:

- Mac S. Phillips, Esq. (Email: mphilips@phillipstadros.com), Phillips Tadros, P.A., 212 SE 8th St., Suite 103, Fort Lauderdale, FL 33316;
- Kenneth J. Dorchak, Esq. (Email: kdorchak@bhdllawfirm.com), Buchalter, Hoffman & Dorchak, 1075 NE 125th St., Suite 202, North Miami, FL 33161;
- Stuart L. Koenigsberg, Esq., (Email: stuart@koenigsberglaw.com), Stuart L. Koenigsberg, P.A., 8877 SW 131st St., Miami, FL 33176;
- Melisa L. Coyle, Esq., (Email: mcoyle@thecoylelawfirm.com), The Coyle Law Firm, P.A., 407 Lincoln Road, Suite 8E Miami Beach, FL 33139; and

Counsel for Amici Curiae American Property Casualty Insurance Association, and Personal Insurance Federation of Florida:

- Maria Elena Abate, Esq. (Email: mabate@colodnyfass.com) and L. Michael Billmeier, Jr., Esq. (Email: mbillmeier@colodnyfass.com), Colodny Fass, 1401 Northwest 136th Ave., Suite 200 Sunrise, FL 33323.



David M. Caldevilla, FBN 654248
Primary: dcaldevilla@dgfirm.com
Secondary: serviceclerk@dgfirm.com
de la Parte & Gilbert, P.A.
Post Office Box 2350
Tampa, FL 33601-2350
Telephone: (813)229-2775

Kristin A. Norse, FBN 965634
Primary: knorse@kmf-law.com
Secondary: plawhead@kmf-law.com
Stuart C. Markman, FBN 322571
Primary: smarkman@kmf-law.com
Kynes, Markman & Felman, P.A.
Post Office Box 3396
Tampa, FL 33601
Telephone: (813)229-1118

Craig E. Rothburd, FBN 0049182
Primary: crothburd@e-rlaw.com
Craig E. Rothburd, P.A.
320 W. Kennedy Blvd., Suite 700
Tampa, FL 33606
Telephone: (813)251-8800

Scott R. Jeeves, FBN 0905630
Primary: sjeeves@jeeveslawgroup.com
Secondary: amyers@jeeveslawgroup.com
The Jeeves Law Group, P.A.
954 First Ave. North
St. Petersburg, FL 33705
Telephone: (727)894-2929

John V. Orrick, Jr., FBN 28225
Primary: jorrick@jvolaw.com
Law Offices of John V. Orrick, P.L.
6946 W. Linebaugh Ave.
Tampa, FL 33625-5800
Telephone: (813)283-5868

COUNSEL FOR PETITIONER