

## 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 NOTICE OF SCRIVENER'S ERROR IN AMENDED INITIAL BRIEF**

The Petitioner, MRI Associates of Tampa, Inc., doing business as Park Place MRI, hereby provides notice of 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. This notice is provided in an abundance of caution to avoid misunderstanding or confusion. If the Court wishes for the Petitioner to

file a corrected brief to reflect the foregoing corrections, the undersigned attorneys would be pleased to do so, upon request.

### **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.:**

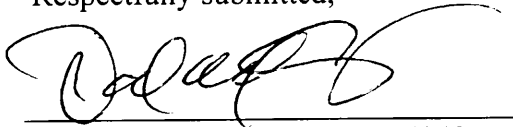
- Mac S. Phillips, Esq. (Email: mphilipps@phillipstadros.com), Phillips Tadros, P.A., 212 SE 8th St., Suite 103, Fort Lauderdale, FL 33316;
- Kenneth J. Dorchak, Esq. (Email: kdorchak@bhdllawfirm.com), Buchalter, Hoffman & Dorchak, 1075 NE 125th St., Suite 202, North Miami, FL 33161;

- 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.

Respectfully submitted,



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**