

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,

Appellant,

v.

Case No. 5D19-2219

DAVID C. KNAPP AND LOGAN K.
ATKINSON,

Appellees.

Opinion filed December 11, 2020

Appeal from the Circuit Court
for Brevard County,
James H. Earp, Judge.

Warren B. Kwavnick and Kelly Lenahan,
of Cooney Trybus Kwavnick Peets, PLC,
Fort Lauderdale, for Appellant.

Christopher V. Carlyle, of The Carlyle
Appellate Law Firm, Orlando, and
Andrew B. Pickett, of Andrew Pickett Law,
PLLC, Melbourne, for Appellee David C.
Knapp.

No Appearance for Appellee Logan K.
Atkinson.

PER CURIAM.

In this action for uninsured motorist benefits, State Farm Automobile Insurance Company ("State Farm") appeals an adverse final judgment. We agree with State Farm

that it was improper for plaintiff's counsel to suggest to prospective jurors that empathy was a proper consideration in reaching a verdict. *See, e.g., Joe v. State*, 617 So. 2d 843 (Fla. 4th DCA 1993) (disapproving trial court's instruction attempting to draw a distinction between sympathy and empathy). However, we conclude that the trial court's denial of State Farm's ensuing motion for mistrial was not an abuse of discretion. We affirm, without discussion, as to the other issues raised on appeal.

AFFIRMED.

EVANDER, C.J., LAMBERT and HARRIS, JJ., concur.