

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

UNITED AUTOMOBILE INSURANCE COMPANY,
Petitioner,

v.

RIVERSIDE MEDICAL ASSOCIATES, INC., a/a/o **NORMADEL BURKE,**
and **JAMES BAYLIS,**

Respondents.

No. 4D18-1185

[September 12, 2018]

Petition for writ of certiorari to the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Martin J. Bidwill, Judge; L.T. Case No. 13-013358 CACE 05.

Michael J. Neimand, House Counsel, Miami, and Eric G. Belsky of Leiter Belsky & Tharp, Fort Lauderdale, for petitioner.

Henry A. Seiden of Seiden Law, Delray Beach, for respondent Riverside Medical Associates, Inc., a/a/o Normadel Burke.

PER CURIAM.

We grant the petition for writ of certiorari. The circuit court's order granting plaintiff's motion to amend a complaint to add a punitive damages claim fails to make "an affirmative finding that the plaintiff made a 'reasonable showing by evidence,' which would provide a 'reasonable evidentiary basis for recovering such damages. . . ." *Leinberger v. Magee*, 226 So. 3d 899, 901 (Fla. 4th DCA 2017) (quoting *Varnedore v. Copeland*, 210 So. 3d 741, 747-48 (Fla. 5th DCA 2017)); see also *Petri Positive Pest Control, Inc. v. CCM Condo. Assoc., Inc.*, 174 So. 3d 1122 (Fla. 4th DCA 2015); *Henn v. Sandler*, 589 So. 2d 1334, 1335 (Fla. 4th DCA 1991) (en banc) (stating that section 768.72, Florida Statutes creates "a positive legal right in a party not to be subjected to financial worth discovery until the trial court has first made an affirmative finding that there is a reasonable evidentiary basis for the punitive damages claim to go to the jury").

We quash the order under review which rules that the “motion is granted” and remand to the circuit court “to enter its affirmative findings or, if necessary, hold further proceedings consistent with this opinion.” *Petri Positive*, 174 So. 3d at 1122.

WARNER, GROSS and KUNTZ, JJ., concur.

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Not final until disposition of timely filed motion for rehearing.