

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
January Term 2012

OAKLAND PARK MRI, INC.,
Petitioner,

v.

USAA CASUALTY INSURANCE CO.,
Respondent.

No. 4D11-3521

[May 30, 2012]

PER CURIAM.

Oakland Park MRI, Inc. (Oakland), the appellee below, seeks certiorari review from an opinion of the Broward County circuit court, in its appellate capacity, which reversed a county court final money judgment in its favor, which had been appealed by the defendant USAA Casualty Insurance Co. The opinion reflects that the circuit court did not take into consideration Oakland's answer brief: "Having reviewed **the brief [singular]**, the record on appeal, and the motions filed in this case, the Court dispenses with oral argument and finds and decides **in the absence of the answer brief** as follows:" (Emphasis added)

We grant the petition based on Oakland's argument that it was deprived of procedural due process by the circuit court's failure to consider its brief and direct the circuit court to reconsider the appeal, taking the answer brief into consideration. We do not reach Oakland's second argument, that the circuit court departed from the essential requirements of law in reversing the county court judgment in its favor. Such review now would be premature, because the circuit court's further proceedings could render that argument moot.

Granted in Part; Opinion Quashed.

HAZOURI, DAMOORGIAN and CONNER, JJ., concur.

* * *

Petition for writ of certiorari to the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Richard D. Eade, Judge; L.T. Case No. 10-14286CACE (08).

John Beranek of Ausley & McMullen, Tallahassee, and Harley N. Kane of Kane & Kane, P.A., Boca Raton, for petitioner.

Douglas H. Stein of Seipp & Flick, LLP, Miami, for respondent.

Not final until disposition of timely filed motion for rehearing.