

Third District Court of Appeal

State of Florida

Opinion filed August 7, 2019.
Not final until disposition of timely filed motion for rehearing.

No. 3D19-800
Lower Tribunal Nos. 13-391 & 05-2315

Gallo Medical Center, a/a/o Luz Delia Acevedo,
Petitioner,

vs.

State Farm Fire & Casualty Co.,
Respondent.

On Petition for Writ of Certiorari from the Circuit Court for Miami-Dade County, Appellate Division, Maria Espinosa Dennis, Antonio Arzola, and Alexander S. Bokor, Judges.

Law Office of Rima C. Bardawil, P.A., and Rima C. Bardawil, for petitioner.

Conroy Simberg, and Diane H. Tutt, B.C.S. (Hollywood), for respondent.

Before LINDSEY, HENDON, and GORDO, JJ.

PER CURIAM.

Gallo Medical Center, a/a/o Luz Delia Acevedo, seeks second-tier certiorari review of a circuit court appellate decision concluding that State Farm Fire & Casualty Co. has a right to raise an “unlawfulness” affirmative defense to challenge Gallo Medical Center’s ability to seek personal injury benefits. Gallo Medic Med. Ctr. v. State Farm Fire & Cas. Co., 27 Fla. L. Weekly Supp. 130b (Fla. 11th Cir. Mar. 26, 2019).¹ We deny the second-tier petition for writ of certiorari because there is no showing that the circuit court, sitting in its appellate capacity, failed to afford Gallo Medical Center procedural due process in the appeal or failed to apply the correct law resulting in a miscarriage of justice. See Custer Med. Ctr. v. United Auto. Ins. Co., 62 So. 3d 1086, 1092 (Fla. 2010) (quoting Haines City Cmty. Dev. v. Hegggs, 658 So. 2d 523, 530 (Fla. 1995)) (“[W]hen a district court considers a petition for second-tier certiorari review, the ‘inquiry is limited to whether the circuit court afforded procedural due process and whether the circuit court applied the correct law,’ or, as otherwise stated, departed from the essential requirements of law.”).

Denied.

¹ The caption of the circuit court appellate decision incorrectly states that the appellant/cross-appellee is Gallo Medic Medical Center a/a/o Luz Delia Acevedo. The appellant/cross-appellee in the circuit court appellate decision is Gallo Medical Center, a/a/o Luz Delia Acevedo, as indicated in the opinion itself.