

Third District Court of Appeal

State of Florida, July Term, A.D. 2011

Opinion filed November 16, 2011.
Not final until disposition of timely filed motion for rehearing.

No. 3D11-965
Lower Tribunal Nos. 08-489AP, 07-21373

State Farm Mutual Automobile Insurance Company,
Petitioner,

vs.

H Rehab, Inc. a/a/o Paula A. Villa,
Respondent.

A Writ of Certiorari to the Circuit Court for Miami-Dade County, Ellen Sue Venzer, Stanford Blake, and Bertila Soto, Judges.

Seipp & Flick and Douglas H. Stein, for petitioner.

Stuart B. Yanofsky (Plantation), for respondent.

Before RAMIREZ, SUAREZ, and SALTER, JJ.

SUAREZ, J.

The Petitioner, State Farm Mutual Automobile Insurance Company (“State Farm”), petitions for Writ of Certiorari to review the decision of the circuit court of

the Eleventh Judicial Circuit, in and for Miami-Dade County, sitting in its appellate capacity. That court's decision affirmed the trial court's order granting the Respondent's, H Rehab Inc., a/a/o Paula A. Villa, Plaintiff below, motion to compel production of State Farm's surveillance video prior to allowing State Farm the opportunity to depose the subject of the video. For the second time as between these two parties,¹ we grant State Farm's petition for certiorari, and quash only that part of the order below granting the Plaintiff's motion for production, as the circuit court violated a clearly established principle of law. See Dodson v. Persell, 390 So. 2d 704, 708 (Fla. 1980) (holding that the trial court's discretion to allow discovery deposition before disclosure is "an appropriate middle road to ensure that all relevant evidence reaches the trier of fact in a fair and accurate fashion").

We, therefore, grant the petition, quash only that part of the order under review that granted the Plaintiff/Respondent's motion to compel production of the surveillance video/DVD,² and remand with instructions that State Farm is not required to produce the surveillance video/DVD prior to taking the deposition of the Plaintiff and insured/Plaintiff's assignor, Paula A. Villa. The above issue was the only portion of the trial court's order appealed to the Appellate Division of the

¹ And determining the identical issue; see State Farm Fire & Cas. Co. v. H Rehab Inc. a/a/o Martha Alava, 56 So. 3d 55 (Fla. 3d DCA 2011) (holding that the trial court could not order the insurer to produce surveillance video before giving the insurer an opportunity to depose the subjects of the video).

² Item 4 of the September 9, 2008, Order on review, Case No. 07-21373 SP 25 (03).

Eleventh Judicial Circuit and the only issue raised in this second tier certiorari. We thus express no opinion as to the remainder of the order under review.