

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR MIAMI-
DADE COUNTY, FLORIDA

STATE FARM FIRE AND CASUALTY Case No: 09-05166 CA 2
COMPANY,

Plaintiff,

vs.

MIAMI STAR LLC (GARCIA,
AGUILERA, JIMENEZ AND CRUZ),

Defendant

**ORDER OF FINAL JUDGMENT GRANTING PETITIONER'S PETITION/MOTION FOR
DISCOVERY PURSUANT TO 627.736(6)(C)**

THIS CAUSE having come before the Court on Petitioner's, STATE FARM FIRE AND CASUALTY COMPANY (hereinafter referred to as "STATE FARM"), Petition/Motion for Discovery Pursuant to 627.736(6)(c) and Motion for Entry of Final Judgment After Default against Respondent, MIAMI STAR LLC (GARCIA, AGUILERA, JIMENEZ AND CRUZ), and the Court having heard argument of counsel, and being otherwise advised in the Premises, the Court finds as follows,

ORDERED AND ADJUDGED that:

Facts

1. This is an action for Final Judgment upon Petitioner's Petition/Motion for Discovery filed with this Honorable Court on January 22, 2009 pursuant to Section 627.736 (6)(c), Florida Statutes (2008), and Kaminester v. State Farm Mutual Automobile Insurance Co., 775 So.2d 981 (Fla. 4th DCA 2000), State Farm Mutual Automobile Insurance Co. v. Goldstein, 798 So.2d 807 (Fla. 4th DCA 2001), and MRI Services, Inc. v. State Farm Mutual Automobile Insurance Co., 807 so.2d 783 (Fla. 2d DCA 2002).

2. The Petitioner, STATE FARM, is a corporation licensed to do business in the State of Florida, engaged in the business of automobile insurance, and conducts business in Miami-Dade County, Florida.

3. The Respondent, MIAMI STAR LLC, is a Florida limited liability company operating as a medical clinic, with its principal place of business at 1506 East 4th Avenue, Hialeah, Florida 33010.

4. Pursuant to alleged Assignments of Benefits, the Respondent, MIAMI STAR LLC, submitted medical bills to the Petitioner, STATE FARM, for medical services purportedly rendered to Miguel Garcia, Miladys Aguilera, Berta Jimenez and Julio Cruz

allegedly as the result of motor vehicle accidents. The charges were submitted under policies of automobile insurance issued by the Petitioner, STATE FARM, which provided personal injury protection (PIP) coverage pursuant to Florida's No-Fault Law (the "PIP" Statute), Section 627.736, Florida Statutes, subject to the terms, conditions, limitations and exclusions of said policy and Florida law.

5. On July 16, 2008, Petitioner, STATE FARM, received the first set of medical bills (for various dates of service) from the Respondent, MIAMI STAR LLC, purportedly signed by "Alex Nalda DC", for medical services allegedly rendered to Miguel Garcia, Miladys Aguilera, and Julio Cruz. On August 13, 2008, Petitioner, STATE FARM, received the first set of medical bills (for various dates of service) from the Respondent, MIAMI STAR LLC, purportedly signed by "Alex Nalda DC", for medical services allegedly rendered to Berta Jimenez.

6. The Petitioner, STATE FARM, has a number of questions pertaining to the medical documentation submitted by the Respondent, MIAMI STAR LLC, for payment under the PIP portion of the subject policies of insurance.

7. On or about July 28, 2008, July 25, 2008 and September 26, 2008, the Petitioner, STATE FARM, sent timely requests for documentation to the Respondent, MIAMI STAR LLC, pursuant to Section 627.736 (6)(b), Florida Statutes (2008), in an attempt to obtain information to determine whether, or to what extent, said medical bills submitted by the Respondent are payable.

8. The Respondent, MIAMI STAR LLC, did not respond to the Petitioner's, STATE FARM, statutory requests for additional information.

9. On or about January 22, 2009 the Petitioner, STATE FARM, filed its Petition/Motion for Discovery Pursuant to Section 627.736(6)(c), Florida Statutes, against Respondent, MIAMI STAR LLC In Re: Miguel Garcia, Miladys Aguilera, Berta Jimenez and Julio Cruz in the Circuit Court in and for Miami-Dade County, Florida, Case Number 09-05166 CA 2.

10. On June 2, 2009, the Clerk of this Honorable Court entered a Default in favor of the Petitioner, STATE FARM, for Respondent's, MIAMI STAR, failure to serve or file any paper as required by law.

11. The Petitioner, STATE FARM, moves this Court for entry of a Final Judgment after Default granting discovery as requested in Petitioner's Petition/Motion for Discovery filed pursuant to Section 627.736 (6)(c), Florida Statutes (2008).

Analysis

12. Section 627.736(6)(c), Florida Statutes (2008), provides that "In the event of any dispute regarding an insurer's right to discovery of facts under this section, the insurer may petition a court of competent jurisdiction to enter an order permitting such discovery. The order may be made only on motion for good cause shown and upon notice to all persons having an interest, and it shall specify the time, place, manner, conditions, and scope of the discovery. Such court may, in order to protect against

annoyance, embarrassment, or oppression, as justice requires, enter an order refusing discovery or specifying conditions of discovery and may order payments of costs and expenses of the proceeding, including reasonable fees for the appearance of attorneys at the proceedings, as justice requires.”

13. The Petitioner, STATE FARM, seeks this Petition/Motion for Discovery to determine, inter alia, what medical services were actually rendered; what medical services were lawfully rendered; who actually rendered the medical services billed; and what amount, if any, is due.

14. A dispute has arisen between the Petitioner, STATE FARM, and the Respondent, MIAMI STAR LLC, as to the Petitioner’s right to discovery of facts pursuant to Section 627.736 (6), Florida Statutes (2008).

15. The Petitioner, STATE FARM, has good cause for seeking the discovery sought in this Petition. Upon proper notice of Petitioner’s Motion for Discovery provided to the Respondent and interested parties as required by Section 627.736 (6)(c), Florida Statutes (2008), the Respondent, MIAMI STAR LLC, failed to serve or file any paper as required by law.

16. Therefore, this Court finds that the Petitioner, STATE FARM, is permitted to engage in discovery which includes, but is not limited to:

- a. Production of the entire medical file and all medical records and medical bills pertaining to services rendered to Miguel Garcia, Miladys Aguilera, Berta Jimenez and Julio Cruz;
- b. Any and all forms completed and/or signed by Miguel Garcia, Miladys Aguilera, Berta Jimenez and Julio Cruz or on behalf of Miguel Garcia, Miladys Aguilera, Berta Jimenez and Julio Cruz;
- c. Copies of any and all appointment books covering the time frame in which services were rendered to Miguel Garcia, Miladys Aguilera, Berta Jimenez and Julio Cruz with names of other patients redacted;
- d. Any and all “sign in” or “sign out” sheets signed by Miguel Garcia, Miladys Aguilera, Berta Jimenez and Julio Cruz with the names of other patients redacted;
- e. Any and all medical records or physical therapy records signed by Miguel Garcia, Miladys Aguilera, Berta Jimenez and Julio Cruz;
- f. Any Disclosure and Acknowledgement Form signed by Miguel Garcia, Miladys Aguilera, Berta Jimenez and Julio Cruz pursuant to Section 627.736 (5)(e), Florida Statutes (2008);
- g. Any and all electronically stored data regarding services rendered to Miguel Garcia, Miladys Aguilera, Berta Jimenez and Julio Cruz;

- h. Any and all referral forms pertaining to Miguel Garcia, Miladys Aguilera, Berta Jimenez and Julio Cruz;
- i. Any and all correspondence pertaining to Miguel Garcia, Miladys Aguilera, Berta Jimenez and Julio Cruz;
- j. Any and all prescriptions pertaining to Miguel Garcia, Miladys Aguilera, Berta Jimenez and Julio Cruz;
- k. Any and all contracts or agreements between the Respondent and any other diagnostic or medical provider involving the care of Miguel Garcia, Miladys Aguilera, Berta Jimenez and Julio Cruz, if any;
- l. Any and all assignments of benefits or revocations of assignment of benefits signed by Miguel Garcia, Miladys Aguilera, Berta Jimenez and Julio Cruz;
- m. Any medical documentation whatsoever indicating supervision, whether direct or indirect, by a properly licensed chiropractor of the care and treatment allegedly rendered to Miguel Garcia, Miladys Aguilera, Berta Jimenez and Julio Cruz;
- n. Any medical documentation whatsoever indicating why it was medically necessary to utilize mobile/portable x-ray equipment for Miguel Garcia, Miladys Aguilera, Berta Jimenez and Julio Cruz;
- o. Any documentation indicating payments received from any source whatsoever for medical services rendered to Miguel Garcia, Miladys Aguilera, Berta Jimenez and Julio Cruz;
- p. All medical licenses for all individuals rendering medical services to Miguel Garcia, Miladys Aguilera, Berta Jimenez and Julio Cruz on the dates material to their purported treatment at Respondent's facility; and
- q. All documents, records and information previously requested by the Petitioner, STATE FARM, in its statutory requests for documentation.

17. Pursuant to Kaminester v. State Farm Mutual Automobile Insurance Co., 775 So.2d 981 (Fla. 4th DCA 2000), State Farm Mutual Automobile Insurance Co. v. Goldstein, 798 So.2d 807 (Fla. 4th DCA 2001), the Petitioner, STATE FARM, is also granted leave to depose the following persons and to require that they bring certain pertinent documents:

- a. Person with the Most Knowledge of billing at the Respondent's facility, MIAMI STAR LLC;
- b. Records Custodian of the Respondent's facility, MIAMI STAR LLC;
- c. Alejandro Nalda, D.C.;

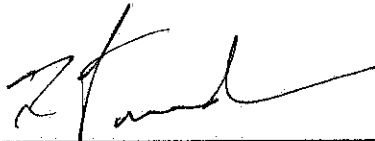
d. Jose Ramon Rivero, C.C.P.A.; and

e. Person with the Most Knowledge regarding who performed the physical therapies purportedly rendered to Miguel Garcia, Miladys Aguilera, Berta Jimenez and Julio Cruz.

18. Pursuant to Section 627.736(6)(b), Florida Statutes (2008), this Court also finds that any amount or partial amount payable on these claims shall not be deemed overdue until ten (10) days after receipt of the requested discovery.

19. This Court shall retain jurisdiction over this matter to enforce said Order; specify the time manner, place, conditions and scope of the discovery; order further discovery deemed appropriate by the Court; and award attorney's fees and costs to the Petitioner, STATE FARM, pursuant to Section 627.736(6)(c), Florida Statutes (2008).

DONE AND ORDERED in Chambers, at Miami this 8 day of
Oct, 2009.



COUNTY/CIRCUIT JUDGE

Copies furnished to:
Jessica R. Zlotnick, Esq.
Miami Star, LLC c/o Registered Agent, Spiegel & Utrera, P.A.

Ronald M. Friedman