

IN THE SUPREME COURT OF FLORIDA

CASE NO. SC12-3

FOURTH DISTRICT CASE NO. 4D10-5143

**UNITED AUTOMOBILE INSURANCE COMPANY,
A Florida corporation,**

Petitioner,

vs.

**HALLANDALE BEACH ORTHOPEDICS, INC.,
a/a/o AZRIAH FULTON,**

Respondent.

PETITIONER'S BRIEF ON JURISDICTION

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INTRODUCTION

The Petitioner, United Automobile Insurance Company, was the Defendant in the trial court, the Appellant before the District Court and will be referred to as United Auto. The Respondent, Hallandale Beach Orthopedics, Inc., a/a/o Azriah Fulton, were the Plaintiff below, the Appellee before the District Court and will be referred to as Hallandale Beach. The symbol "A." will designate the appendix to this brief.

STATEMENT OF THE CASE AND FACTS

The Fourth District affirmed the ruling of the county court based on its earlier opinion in *Kingsway Amigo Ins. Co. v. Ocean Health, Inc.*, 63 So.3d 63 (Fla. 4th DCA 2011), *petition for discretionary review pending in SC11-1581*. (A-1). This petition then followed.

SUMMARY OF THE ARGUMENT

The decision of the Fourth District below was decided based on its earlier decision in *Kingsway Amigo Ins. Co. v. Ocean Health, Inc.*, 63 So.3d 63 (Fla. 4th DCA 2011). Currently, *Kingsway Amigo* is pending before this Court on a Petition for Discretionary Review in Case No. SC11-1581. Should this Court elect to take jurisdiction in *Kingsway Amigo*, this Court would have jurisdiction to review the instant case as a “piggyback case.” *The Fla. Star v. B.J.F.*, 530 So.2d 286, 288 n. 3 (Fla. 1988).

ARGUMENT

THIS COURT WOULD HAVE JURISDICTION IN THE INSTANT CASE IF THIS COURT EXERCISES ITS JURISDICTION TO REVIEW *KINGSWAY AMIGO INS. CO. V. OCEAN HEALTH, INC.*, 63 SO.3D 63 (FLA. 4TH DCA 2011).

The decision of the Fourth District below was decided based on its earlier decision in *Kingsway Amigo Ins. Co. v. Ocean Health, Inc.*, 63 So.3d 63 (Fla. 4th DCA 2011). Currently, *Kingsway Amigo* is pending before this Court on a Petition for Discretionary Review in Case No. SC11-1581. Should this Court elect to take jurisdiction in *Kingsway Amigo*, this Court would have jurisdiction to review the instant case as a “piggyback case.” *The Fla. Star v. B.J.F.*, 530 So.2d 286, 288 n. 3 (Fla. 1988).

CONCLUSION

Petitioner respectfully submits that the Fourth District's decision in *Kingsway Amigo*, on which the instant decision was based, is currently pending before this Court on a Petition for Discretionary Review in Case No. SC11-1581. In the event this Court takes jurisdiction of *Kingsway Amigo*, Petitioner requests that this Court enter an order granting discretionary jurisdiction of the instant case as a piggyback case.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent via U.S. Mail, on this ___ day of January 2012 to: Dean A. Mitchell, Esq., 4939 N.W. 115th Avenue, Ocala, Florida 34482 and Cris E. Boyer, Esq., 6896 West Atlantic Blvd., Margate, Florida 33063.

MICHAEL J. NEIMAND

**CERTIFICATE OF COMPLIANCE WITH FLORIDA RULE
OF APPELLATE PROCEDURE 9.210**

I HEREBY CERTIFY that this brief complies the font requirements of Florida Rule of Appellate Procedure 9.210(a)(2).

MICHAEL J. NEIMAND