FLORIDA THIRD DISTRICT COURT OF APPEAL

Universal X Rays Corp., a/a/o Miguel Larosa-Ferrer v. United Automobile Insurance Company

No. 3D24-0777 · No. 3D24-0777 · Decided October 8, 2025

SUMMARY

The Third District Court of Appeal of Florida affirmed summary judgment for United Automobile Insurance Company in a dispute over Personal Injury Protection benefits. The court held that the insured's sworn examination-under-oath admission that he misstated his address on the policy application was proper summary-judgment evidence because it could be presented in admissible form at trial. The court also rejected the argument that the examination was inadmissible under section 92.33, Florida Statutes.

CASE DETAILS

COURT	Florida Third District Court of Appeal
WRITING FOR THE COURT	Lindsey, J.; Gordo, J.; Gooden, J.
JURISDICTION	Florida Third District Court of Appeal
DECIDED	October 8, 2025
DOCKET	3D24-0777
DISPOSITION	affirmed
PROCEDURAL POSTURE	Universal X Rays, the insured's assignee, appealed a final summary judgment for United Automobile Insurance Company in an action seeking personal injury protection benefits.
STANDARD OF REVIEW	Evidentiary rulings are generally reviewed for abuse of discretion, but review is de novo to the extent the ruling depends on interpretation of legal authorities. The summary judgment ruling was reviewed under Florida's federal summary judgment standard.
PRECEDENTIAL VALUE	published
PARTIES	Universal X Rays, Corp., a/a/o Miguel Larosa-Ferrer v. United Automobile Insurance Company

TOPICS

insurance coverage · summary judgment · hearsay · affirmative defenses · appellate procedure

PRACTICE AREAS

insurance · personal injury protection benefits · civil procedure · evidence · contracts

QUESTIONS PRESENTED

1. Whether the insured's examination under oath was inadmissible summary judgment evidence because it was hearsay.
2. Whether the examination under oath was inadmissible under section 92.33, Florida Statutes, because a copy was not provided to the insured.
3. Whether summary judgment was proper on United Automobile's affirmative defense of material misrepresentation when the examination under oath was admissible and unrebutted.

HOLDINGS

1. An out-of-court statement may be considered at summary judgment when it can be presented in admissible form at trial. The insured's examination under oath was proper summary judgment evidence because his admission could be presented through his direct testimony at trial.
2. The examination under oath was not inadmissible under section 92.33. The court assumed without deciding that the statute applied, because there was no allegation that United Automobile refused to furnish the statement upon request and it was undisputed that Universal received a copy.
3. Summary judgment for United Automobile was proper because the admissible and unrebutted examination-under-oath evidence established that the insured materially misrepresented his address on the policy application.

KEY QUOTATIONS

> *"Under Florida's summary judgment standard, which mirrors the federal standard, hearsay may be used so long as it can be presented in admissible form at trial."* (6)

> *"Because the Insured's EUO was admissible summary judgment evidence and Universal failed to present any counter evidence to dispute the Insured's sworn admission that he made a material misrepresentation in his Policy Application, we affirm."* (9)

FACTUAL BACKGROUND

In July 2020, Miguel Larosa-Ferrer was involved in a motor vehicle accident and received medical treatment from Universal X Rays, to which he assigned his rights under a United Automobile insurance policy. During an examination under oath, he admitted that he had moved shortly before signing the policy application and had listed his former address rather than his current address. United Automobile denied coverage and rescinded the policy, stating that the correct garaging information would have resulted in nonissuance or a substantially higher premium. Universal offered no evidence disputing the examination-under-oath testimony.

PROCEDURAL HISTORY

After the insured's examination under oath revealed that he had provided an outdated address on his policy application, United Automobile denied coverage and rescinded the policy. Universal sued for breach of the policy. The county court granted United Automobile summary judgment on its affirmative defense of material misrepresentation, denied rehearing, and Universal timely appealed.

DISPOSITION

affirmed

CASES CITED

- Bank of New York Mellon v. Garcia, 254 So. 3d 565, 567 (Fla. 3d DCA 2018)
- In re Amends. to Fla. R. of Civ. P. 1.510, 317 So. 3d 72, 74-75 (Fla. 2021)
- Fuentes v. Link, 394 So. 3d 684, 686 (Fla. 3d DCA 2024)
- The Florida Bar v. Greene, 926 So. 2d 1195, 1200 (Fla. 2006)
- Macuba v. Deboer, 193 F.3d 1316, 1323 (11th Cir. 1999)
- Jones v. UPS Ground Freight, 683 F.3d 1283, 1293-94 (11th Cir. 2012)
- Sentz v. Bonefish Grill, LLC, 379 So. 3d 1, 3 (Fla. 4th DCA 2023)
- McMillian v. Johnson, 88 F.3d 1573, 1584 (11th Cir. 1996)
- McMillian v. Monroe County, 520 U.S. 781 (1997)