

IN THE SUPREME COURT OF FLORIDA

FILED

SID J. WHITE

AUG 29 1984

CLERK, SUPREME COURT

By _____
Chief Deputy Clerk

SHERAN PORR, individually,
and as Personal Representative
of the Estate of Robert Ray
Ward,

Petitioner,

v.

CASE NO. 65,674

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,

Respondent.

RESPONDENT'S BRIEF ON JURISDICTION

W. C. O'NEAL
O'NEAL & O'NEAL
Post Office Drawer O
Gainesville, FL 32602
Attorneys for Respondent

I N D E X

	<u>PAGE</u>
STATEMENT OF THE CASE AS IT APPLIES TO JURISDICTION	1
POINT ON JURISDICTION	2
ARGUMENT	3
CERTIFICATE OF SERVICE	4

TABLE OF CITATIONS

CASES:

<u>Reid v. State Farm Fire & Casualty Co.,</u> 352 So.2d 1172 (Fla. 1978)	2,3
--	-----

STATEMENT OF THE CASE
AS IT APPLIES TO JURISDICTION

A. FACTS

Respondent disagrees with the Statement of Facts made in the Petitioner's Brief in the following particulars:

The Record is silent concerning any relationship between the driver, Spradlin, and Petitioner PORR or her son, Robert Ward. The Record is also silent concerning whether Spradlin himself was insured or whether the vehicle he was operating was a family car. The Complaint simply states that he negligently operated a truck owned by PORR and carrying the decedent Ward as a passenger.

POINTS ON JURISDICTION

I.

THE DECISION OF THE DISTRICT COURT OF APPEAL HELD THAT PORR COULD NOT RECOVER FOR THE DEATH OF ROBERT WARD UNDER THE UNINSURED MOTORIST PROVISION OF HER VEHICLE WHICH HE WAS OCCUPYING AT THE TIME OF HIS DEATH BECAUSE THE SO-CALLED "FAMILY EXCLUSION" PREVENTED HER FROM DOING SO.

(Restated by Respondent)

The validity of the "Family Exclusion" has been contested and upheld by this Court in Reid v. State Farm Fire & Casualty Company, 352 So.2d 1172 (Fla. 1978).

A R G U M E N T

THE DECISION OF THE DISTRICT COURT OF APPEAL HELD THAT PORR COULD NOT RECOVER FOR THE DEATH OF ROBERT WARD UNDER THE UNINSURED MOTORIST PROVISION OF HER VEHICLE WHICH HE WAS OCCUPYING AT THE TIME OF HIS DEATH BECAUSE THE SO-CALLED "FAMILY EXCLUSION" PREVENTED HER FROM DOING SO.

Having received an Opinion from the First District Court of Appeal which held that she could recover upon the Uninsured Motorist Provisions of two of her three similar policies of insurance, the Petitioner PORR seeks to invoke the jurisdiction of this Court in order to request a ruling that she should recover from all three of her policies. In so doing, the Petitioner argues that the "Family Exclusion" provisions in her policies should not prevent her from recovering upon the policy which covered her vehicle in which her deceased son was a passenger. The Petitioner simply seeks to relitigate the question of the validity of the so-called "Family Exclusion" provision of her automobile liability policy, a provision upon which this Court has ruled in Reid v. State Farm Fire & Casualty Company, 352 So.2d 1172 (Fla. 1978). For the foregoing reason, the Petition should be denied.

Respectfully submitted,



W. C. O'Neal

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy hereof has been furnished to THOMAS W. DAVIS, Attorney for Petitioner, 200 N.E. First Street, Gainesville, FL 32601, by delivery, this 28th day of August, 1984.

O'NEAL & O'NEAL



W. C. O'Neal
Counsel for Respondent