

Supreme Court of Florida

No. 71,337

LIBERTY MUTUAL INSURANCE COMPANY, Petitioner,

vs.

FRANK CHAMBERS and BRUNETTA CHAMBERS, his wife, Respondents.

[June 9, 1988]

PER CURIAM.

We review Chambers v. Liberty Mutual Insurance Co., 511 So.2d 608 (Fla. 3d DCA 1987), to resolve direct conflict with American Mutual Insurance Co. v. Decker, 518 So.2d 315 (Fla. 2d DCA 1987). We have jurisdiction. Art. V, § 3(b)(3), Fla. Const.

Relying on American Motorist Insurance Co. v. Coll, 479 So.2d 156 (Fla. 3d DCA 1985), review denied, 488 So.2d 829 (Fla. 1986), and Rosabal v. Arza, 495 So.2d 846 (Fla. 3d DCA 1986), the court below held that assessing a worker's compensation lien filed under section 440.39, Florida Statutes (1985), against the settlement proceeds of a medical malpractice claim was contrary to section 768.50, Florida Statutes (1985). Analyzing the same issue for the court in American Mutual Insurance Co., Judge Frank reached the opposite conclusion. We agree with Judge Frank's cogent analysis and adopt his opinion as our own. We quash the decision below, disapprove American Motorist Insurance Co. and

Rosabal, and remand for proceedings consistent with this decision.

It is so ordered.

MCDONALD, C.J., and OVERTON, EHRLICH, SHAW, BARKETT, GRIMES and KOGAN, JJ., Concur

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED.

Application for Review of the Decision of the District Court of
Appeal - Direct Conflict of Decisions

Third District - Case No. 86-2405

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