

Supreme Court of Florida

ORIGINAL

No. 76,318

JOANNE PALACINO,

Petitioner,

vs.

STATE FARM MUTUAL
AUTOMOBILE INSURANCE CO.,

Respondent.

[October 3, 1991]

PER CURIAM.

We have for review State Farm Mutual Automobile Insurance Co. v. Palacino, 562 So.2d 837 (Fla. 4th DCA 1990), which certified conflict with Jernigan v. Progressive American Insurance Co., 501 So.2d 748 (Fla. 5th DCA), review denied, 513 So.2d 1062 (Fla. 1987), disapproved, Brixius v. Allstate

Insurance Co., No. 75,026 (Fla. Oct. 3, 1991). The court below expressly applied the law as stated in Brixius v. Allstate Insurance Co., 549 So.2d 1191 (Fla. 2d DCA 1989), which we subsequently have approved. Brixius, No. 75,026, slip op. at 5 (Fla. Oct. 3, 1991). Accordingly, the opinion under review is approved.

It is so ordered.

SHAW, C.J. and OVERTON, GRIMES and HARDING, JJ., concur.
KOGAN, J., dissents with an opinion, in which BARKETT, J., concurs.
McDONALD, J., dissents.

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

KOGAN, J., dissenting.

I dissent for the reasons I expressed in Brixius v. Allstate Insurance Co., No. 75,026 (Fla. Oct. 3, 1991) (Kogan, J., dissenting).

BARRETT, J., concurs.

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

Fourth District - Case No. 87-3279

(Broward County)

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