

Supreme Court of Florida

ORIGINAL

No. 76,338

PATRICIA MICHELLE FRANK,
Petitioner,

vs.

THOMAS O. MORGAN, et al.,
Respondents.

[October 3, 1991]

OVERTON, J.

We have for review Frank v. Morgan, 563 So. 2d 207, (Fla. 4th DCA 1990), which affirmed the trial court on the authority of State Farm Mutual Automobile Insurance Co. v. Palacino, 562 So. 2d 837 (Fla. 4th DCA 1990), approved, No. 76,318 (Fla. Oct. 3, 1991). We approved the Fourth District Court's decision in Palacino in accordance with our decision in Brixius v. Allstate Insurance Co., No. 75,026 (Fla. Oct. 3, 1991). Accordingly, the decision of the district court in this cause is approved.

It is so ordered.

SHAW, C.J. and GRIMES and HARDING, JJ., concur.

BARKETT, J., concurs in result only.

KOGAN, J., dissents with an opinion.

McDONALD, J., dissents.

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

KOGAN, J., dissenting.

I dissent based upon my dissenting opinion in Brixius v. Allstate Insurance Co., No. 75,026 (Fla. Oct. 3, 1991).

BARKETT, J., concurs.

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

Fourth District - Case No. 89-0614

(Martin County)

Eric J. Bruning of Goldman, Bruning & Angelos, P.A., Port St.
Lucie, Florida,

for Petitioner

Richard C. Singer of Kane, Williams & Singer, P.A., Rockledge,
Florida,

for Respondents