

Third District Court of Appeal

State of Florida

Opinion filed April 28, 2021.

Not final until disposition of timely filed motion for rehearing.

No. 3D21-0026

Lower Tribunal Nos. 14-281 CC &18-360 AP

**Geico General Insurance Company,
Appellant,**

vs.

**Finlay Diagnostic Center, Inc., a/a/o Maria P. Cruz,
Appellee.**

An appeal from the County Court for Miami-Dade County, Gloria Gonzalez-Meyer, Judge.

Kubicki Draper P.A., and Caryn L. Bellus, and Angela C. Flowers, for appellant.

David B. Pakula, P.A., and David B. Pakula (Pembroke Pines); and Corredor, Hussein & Snedaker, P.A., and Tim Snedaker, for appellee.

Before SCALES, MILLER, and LOBREE, JJ.

MILLER, J.

Appellant, Geico General Insurance Company, challenges a final summary judgment entered in favor of appellee, Finlay Diagnostic Center, Inc.¹ On appeal, Geico contends the lower tribunal erred in interpreting section 627.736(1)(a)(5), Florida Statutes. Recognizing the court did not have the benefit of our decision in Geico General Insurance Co. v. Beacon Healthcare Center Inc., 298 So. 3d 1235 (Fla. 3d DCA 2020), at the time judgment was rendered, we agree.² Accordingly, we reverse and remand the order under review.³ See also S. Owners Ins. Co. v. Hendrickson, 299 So. 3d 524 (Fla. 5th DCA 2020).

Reversed and remanded.

¹ We discern no error in the trial court's conclusion "[the x-rays] were taken by a licensed radiographer."

² We reject the contention Geico was enjoined from relying upon the relevant provisions of the statute. See McCarty v. Myers, 125 So. 3d 333 (Fla. 1st DCA 2013).

³ The parties urge us to address a myriad of other unbriefed issues. As "it is well-settled that '[t]he [t]ipsy [c]oachman doctrine does not apply to grounds not raised in a motion for summary judgment,'" we decline the invitation. Sousa v. Zuni Transp., Inc., 286 So. 3d 820, 822 (Fla. 3d DCA 2019) (citations omitted).