

Do you know “Braille?”

Deborah L. Braille has been an associate with the Goldstein Law Group since 2003. Ms. Braille, a Florida native, received her Bachelor of Science degree with honors from the University of Florida in 1990, and she earned her Juris Doctorate from the University of Florida College of Law in 1993. Besides being admitted to the



Florida Bar, Ms. Braille is also admitted to practice in the U.S. Federal District Court at the Middle and Southern Districts of Florida. Ms. Braille is a member of the Broward County Bar Association, the Florida Defense Lawyers Association and the National Society of Professional Insurance Investigators.

Ms. Braille has handled and tried hundreds of PIP cases. She has also participated in hundreds of depositions and has mediated and arbitrated many PIP cases. Ms. Braille is also versed in premises liability, and has extensive experience in construction defect and damage suits.

Currently, Ms. Braille focuses her practice on PIP litigation involving the National Correct Coding Initiative, or NCCI. She is also a valuable mentor to a number of newly minted attorneys at Goldstein Law Group. Her extensive knowledge of PIP litigation, as well as her likable demeanor, has helped these new attorneys to excel early in their careers, both in the office, by helping to improve their legal writing and critical thinking skills, as well as in the courtroom, with her valuable experience as a litigator.

Personally, Ms. Braille has known Goldstein Law Group's founding partner, Frank Goldstein, since their undergraduate days. Both a full-time attorney and full-time mother, Ms. Braille is also noted as the “best dressed” attorney at Goldstein Law Group.

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GLANCE

VOLUME 7

Arrest Following Goldstein Law Group Investigation

Goldstein Law Group's presuit investigations have led to another arrest. The insured in this claim submitted receipts that appeared to have been altered in connection with a re-opened Hurricane Wilma claim. GLG obtained a sworn statement from the contractor verifying that the receipts submitted by the insured were altered to reflect dates closer in time to the storm. The contractor also indicated that narratives were added to the receipts by the insured stating that the damages resulted from the storm. As a result of this testimony, and the combined investigative efforts of GLG and the adjuster, the insured was arrested and was charged with one count of insurance fraud in Palm Beach County. Currently, there are three cases that have resulted in the filing of charges against the insured: one in Miami-Dade County (arson), one in Broward County (exaggerated residential burglary claim), and now this recent Palm Beach County claim.

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Climbing

Our Way to the Top



Goldstein Law Group will help to raise money for the American Lung Association one step at a time...literally! On December 11th staff members will join hundreds of people in one of the most unique fundraising events in Ft. Lauderdale. They will huff and puff their way up 30 flights of stairs in the 110 Tower. The GLG team is aiming to beat their time from last year. Gus Oliva, GLG's Finance Manager, lead the pack with a time of six minutes, and Lianne Rubbo, GLG's Human Resources Manager, completed all 30 stories in six and half minutes. If you'd like to sponsor a member of GLG's team please contact Lianne Rubbo at 954-767-8393. Good Luck Climbers!

Meet Goldstein Law Group's Newest Attorney



Please welcome Zoltan Hovanyecz, Esq. Zoltan is the newest member to Goldstein Law Group's team. He was a law clerk with Goldstein Law Group since 2009 and was recently admitted to the Florida Bar. Zoltan earned his Juris Doctorate from Nova Southeastern University's Shepard Broad Law Center

where he graduated Cum Laude. Prior to attending law school, Zoltan made the Dean's List at the University of South Florida where he received a Bachelor's degree in Economics and was a member of Beta Theta Honor Society. Zoltan will be working in the property division under the direction of Brian Tenzer, Esq.

The Goldstein Law Group Is Even More Appealing

Recently, many insurers across the State, either in providing a defense for their insured in a Bodily Injury context or directly in Uninsured Motorist claims have been confronted with demands for policy limits supported by compensatory damages predicated upon arguably questionable surgeries.. Some insurers and defense counsel have elected to join the provider in the suit in order to gain access to the discovery desired. This tactic has its pros and cons, however, there is an alternative. Simply obtain the desired information through both written discovery and deposition of the provider whose bills are in question and potentially inflating an otherwise nominal claim. The focus of this discovery is not upon the reasonableness of the procedure but rather the reasonableness of the charges associated therewith, the lawfulness of the procedure and therefore its compensability and the causal relationship between the procedure and the subject accident, a position well supported by the Fifth District Court of Appeal's decision in the case of Johnston v. Tueche, 796 So.2d 1282 (Fla. 5th DCA 2001), all in an effort to mitigate the damages sought, which is the insurer/insured's right.

By way of background, the subject claim arose out of a motor vehicle accident in which the Plaintiff sustained soft-tissue injuries for which he sought and received medical treatment, including surgery for which the provider submitted a bill in excess of One Hundred and Forty Thousand (\$140,000.00) dollars, or the bulk of Plaintiff's claimed compensatory damages. The Defendant alleged within her Answer and Affirmative Defenses that the services at issue were neither lawfully rendered nor rendered in compliance with the relevant applicable, criminal, civil and administrative requirements of state and federal law related to the provision of medical services; were not related to the accident underlying this action and that the charges did not constitute reasonable charges for which either the Plaintiff or Defendants should be responsible.

In furtherance of supporting the aforementioned affirmative defenses, Defense Counsel set the deposition of the provider whose services were in question. The decision to stand on the letter of protection aside, Defense Counsel inquired into the basis for both the CPT Code selection and reasonableness of the charges for the services rendered, as well as the provider's compliance with the governing laws, to which Counsel for the Non-Party Provider objected and instructed her client not to answer, precipitating a Motion for Protective Order which was heard by the Circuit Court Judge prior to the continuation of the provider's deposition.

The Circuit Court Judge ruled upon the Non-Party Provider's Motion for Protective Order, holding that the Defendant would not be permitted to question the provider about his coding, or the basis for his charges or his compliance with the governing statutes and administrative codes, finding the former irrelevant in a claim for bodily injury damages and the later inappropriate for discovery as there is no private cause of action for violations of same. Upon firm belief that the Trial Court departed from the essential requirements of law causing irreparable harm, which could not be remedied on plenary (final) appeal, the Defendant, by and through the Goldstein Law Group filed a Petition for Writ of Certiorari asking the Fifth District Court of Appeal to reverse the Circuit Court's interlocutory decision.

Without getting into the factual and legal nuances of the case, the core argument on appeal is that the Circuit Court departed from the essential requirements of law causing irreparable harm which could not be remedied on plenary appeal, and that the discovery sought was both relevant to the issues as framed by the pleadings (specifically, Defendant's Affirmative Defenses) and reasonably calculated to lead to the discovery of admissible evidence. A Defendant is entitled to mitigate those damages sought to be recovered and may do so by challenging the reasonableness and the very compensability of the services rendered and which form the basis for Plaintiff's desired recovery. A Defendant may do so in any number of ways, including attacking the way the procedure was coded; the reasonableness of the charge for the procedure as it relates both the code selected and the methods utilized as well as on the most basic and core level, whether or not the service was even lawfully rendered, as no party should be obligated to pay for unlawfully rendered services.

The foregoing is currently playing out in the Eighteenth Judicial Circuit, in and for Seminole County, Florida (Ali v. McCarthy, Case No. 09-CA-4356-08 K (Eighteenth Judicial Circuit, Seminole County) and the Fifth District Court of Appeal on a Petition for Writ of Certiorari (McCarthy v. Ali, 5D10-2190 (Fla. 5th DCA). It should also be noted that the Goldstein Law Group, in the case of Perez v. Alan, Case No.: 09-723-CA (19th Judicial Circuit, Martin County) recently argued an almost identical motion before the 19th Judicial Circuit and obtained a more favorable ruling, wherein the Court permitted inquiry into the essence of both the provider's billing and establishment of his charges without getting into the selection of the actual CPT Code. Although the Court still restricted discovery relative to the provider's compliance with the governing statutes and administrative codes without an opinion from the Department of Health, this certainly represents a step in the right direction and another potential means of bringing this issue to a head.

As of the date of this publication there has been no decision from the Fifth District Court of Appeal with respect to the McCarthy Petition for Writ of Certiorari. We hope to have good news for you in our next edition. If you or your insureds are currently facing a similar situation, please feel free to contact Goldstein Law Group.