

Third District Court of Appeal

State of Florida, January Term, A.D. 2011

Opinion filed February 16, 2011.
Not final until disposition of timely filed motion for rehearing.

No. 3D10-3234
Lower Tribunal No. 08-515 AP

State Farm Fire and Casualty Company,
Petitioner,

vs.

H Rehab, Inc. A/A/O Martha Alava,
Respondent.

A Writ of Certiorari to the Circuit Court for Miami-Dade County, Rosa I. Rodriguez, Dava J. Tunis, Antonio Arzola, JJ.

Seipp & Flick, and Douglas H. Stein, for petitioner.

Stuart Yanofsky, for respondent.

Before RAMIREZ, C.J., and GERSTEN and SALTER, JJ.

PER CURIAM.

Petitioner State Farm Fire & Casualty Company seeks review of the decision of the circuit court, sitting in its appellate capacity, in which the court affirmed an order granting respondent H Rehab, Inc., etc.'s motion to compel production of a

surveillance video prior to having the opportunity to depose the subjects of the video. We grant the petition because the circuit court violated a clearly established principle of law.

This Court ordered the respondent to file a response to the petition and address the case of Dodson v. Persell, 390 So. 2d 704 (Fla. 1980). The respondent did not do so. In Dodson, the Florida Supreme Court held that a party is not required to produce surveillance video unless the party is going to introduce the video as evidence, and if so, not until the surveilling party has had the opportunity to depose the subject of the video. Id. at 708.

Here, the circuit court did not permit State Farm the opportunity to depose the plaintiff and insured, the subjects of the video, prior to the production of the video. This is contrary to the principles outlined in Dodson.

We therefore grant the petition, quash the order under review, and remand this case with instructions that State Farm is not required to produce the surveillance video prior to State Farm having taken the deposition of the plaintiff and insured.