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IN THE SUPREME COURT OF FLORIDA

Case No. SC16-103  
L.T. Case No.: 5D15-1210

WILLIAM JOYCE AND JUDITH JOYCE,

Petitioners,

v.

FEDERATED NATIONAL INSURANCE  
COMPANY,

Respondent.

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**MOTION FOR RECONSIDERATION OF ORDER**

**DENYING ORAL ARGUMENT**

Respondent, FEDERATED NATIONAL INSURANCE COMPANY, by and through the undersigned counsel, hereby respectfully requests that this Court reconsider its Order Denying Oral Argument, issued at the time this Court accepted jurisdiction to consider this case and as grounds therefor states:

1. This Court accepted jurisdiction to consider this case based on the Petitioners' contention that the Fifth District's opinion conflicts with various District Court and Supreme Court cases on issues involving the application of an attorneys' fee multiplier. In the same Order, attached hereto as Exhibit "A", this Court indicated that it would not entertain oral argument.

2. During the briefing of this case, the issues raised in the Jurisdictional Briefs were broadened substantially. Specifically, while the Petitioners have argued that the Fifth District misapplied or misconstrued law from this Court as well as others, one of the issues raised by the Respondent suggests that this Court should consider whether

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multipliers should be available at all in most cases, and specifically argues that if this Court retains jurisdiction after consideration of the merits briefs, this Court should recede from its own prior precedent and find that multipliers should never be awarded in tort and contract cases. This issue was not addressed in the Fifth District's opinion, nor was it addressed in the jurisdictional briefing.

3. In addition, the Petitioners have moved for appellate attorneys' fees arguing that while State Farm Fire & Cas. Co. v. Palma, 629 So. 2d 830 (Fla. 1993), held that attorneys' fees are not awardable where only the amount of, and not the entitlement to, attorneys' fees is in dispute, this Court should recede from that precedent and award the Petitioners appellate attorneys' fees in this case, which only addresses the issue of the amount of fees awarded, and not entitlement thereto.

4. These issues are of substantial importance of the Florida Bar and Judiciary as a whole. If this Court is inclined to retain jurisdiction to consider this case, we respectfully submit that the significance of these particular issues warrants oral argument because they have been raised in this Court in the first instance.

WHEREFORE, the Respondent FEDERATED NATIONAL INSURANCE COMPANY respectfully requests that this Court reconsider its order denying oral argument in this case.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy hereof has been furnished to Tracy L. Markham, Esq., Avolio & Hanlon, P.C., 2800 North 5th Street, Suite 302, St. Augustine, FL 32084, Attorney for Appellants, tmarkhamlaw@gmail.com; Derek J. Angell, Esq., O'Connor & O'Connor LLC, 840 S. Denning Drive Suite 200, Winter Park, FL 32789, Co-Counsel for Federated National Insurance Company, dangell@oconlaw.com; Raymond T. Elligett, Jr., Esquire, Buell & Elligett, 3003 West Azeele Street, Suite 100, Tampa, FL 33609, Attorney for Petitioners, elligett@belawtampa.com, farrior@belawtampa.com, gallo@belawtampa.com by electronic mail on this 30th day of November, 2016.

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By: /s/ Hinda Klein  
Hinda Klein, Esquire  
Florida Bar No. 510815

# Supreme Court of Florida

FRIDAY , AUGUST 12, 2016

**CASE NO.: SC16-103**

Lower Tribunal No(s):

5D15-1210;

552014CA000092A000XX

WILLIAM JOYCE, ET AL.

vs. FEDERATED NATIONAL  
INSURANCE COMPANY

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Petitioner(s)

Respondent(s)

The Court accepts jurisdiction.

Petitioner's brief on the merits shall be served on or before September 1, 2016; respondent's brief on the merits shall be served twenty days after service of petitioner's brief on the merits; and petitioner's reply brief on the merits shall be served twenty days after service of respondent's brief on the merits.

The Clerk of the Fifth District Court of Appeal shall file the record which shall be properly indexed and paginated on or before October 11, 2016. The Clerk may provide the record in the format as currently maintained at the district court, either paper or electronic.

LABARGA, C.J., and PARIENTE, QUINCE, and PERRY, JJ., concur.  
LEWIS, J., dissents.

The Court dispenses with oral argument pursuant to Florida Rule of Appellate Procedure 9.320.

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Test:



John A. Tomasino

Clerk, Supreme Court



EXHIBIT "A"

CASE NO.: SC16-103

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