

**IN THE SUPREME COURT OF THE STATE OF FLORIDA**

ISAAC (“IKE”) PERLMUTTER  
& LAURA PERLMUTTER,

*Petitioners,*

v.

FEDERAL INSURANCE  
COMPANY,  
HAROLD PEERENBOOM, &  
WILLIAM MARVIN  
DOUBERLEY

*Respondents.*

SC2024-0058

**NOTICE OF  
SUPPLEMENTAL AUTHORITY**

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Respondent, Federal Insurance Company (“Federal”), submits as supplemental authority the decision of *Orlando Health, Inc. v. Mohan*, 5D2023-1596, 2024 WL 2484435 (Fla. 5th DCA May 24, 2024).<sup>1</sup> A copy of which is attached to this notice. The supplemental authority is pertinent to the issue on appeal identified as **ISSUE B**, particularly the argument raised on pages 12-15 of Federal’s Jurisdictional Answer Brief.

Petitioners argued that the Second and Fourth Districts’ requirement that the evidence be simply viewed in the light most

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<sup>1</sup> THIS OPINION HAS NOT BEEN RELEASED FOR PUBLICATION IN THE PERMANENT LAW REPORTS.

favorable to the movant conflicts with the Fifth District’s language in *Cook* and *Despain* that the movant’s showing be accepted as true. *Cook v. Florida Peninsula Ins. Co.*, 371 So. 3d 958, 961 (Fla. 5th DCA 2023) (citing *Est. of Despain v. Avante Grp., Inc.*, 900 So. 2d 637, 644 (Fla. 5th DCA 2005)).

However, Respondents noted that the Fifth District ceased using the “accept as true” language in two subsequent opinions - *Hosp. Specialists, P.A. v. Deen*, 373 So. 3d 1283, 1287 (Fla. 5th DCA 2023) and *John Knox Vill. of Cent. Florida, Inc. v. Estate of Lawrence by & through Castleman*, 49 Fla. L. Weekly D165 (Fla. 5th DCA Jan. 12, 2024).

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Later, on March 29, 2024, Federal file a notice of supplemental authority for *Crump v. Am. Multi-Cinema, Inc.*, 49 Fla. L. Weekly D692 (Fla. 5th DCA Mar. 28, 2024)<sup>2</sup> noting the Fifth District again did not use the “accept as true” language, and cited *Hosp. Specialists* approvingly. *Faye*, 2024 WL 1313327 at \*2. The *Crump* Notice also

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<sup>2</sup> Footnote 1 of the *Crump* Notice noted the opinion had not been released for publication, but now the opinion has been released for publication.

noted the Opinion’s author, Judge Adrian G. Soud, was a concurring member of the *Cook* panel.

Now, a fourth opinion has been provisionally released, that yet again does not use the “accept as true” language. *Mohan*, 2024 WL 2484435 at \*4. The relevant passage is reproduced below:

We review de novo the trial court's decision regarding whether a party should be allowed to plead punitive damages. *Wayne Frier Home Ctr. of Pensacola, Inc. v. Cadlerock Joint Venture, L.P.*, 16 So. 3d 1006, 1009 (Fla. 1st DCA 2009). **“In evaluating the sufficiency of the evidence proffered in support of a punitive damages claim, the evidence is viewed in a light favorable to the moving party.”** *Id.*

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*Id.* (emphasis added).

Notably, the Fifth District did not cite its own precedent, but quoted First District precedent on the issue, and Chief Judge James A. Edwards concurred with the decision in both *Crump* and *Mohan*.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing document was filed electronically and was sent by E-Mail from the Florida Courts' E-Filing Portal system, on all counsel or parties of record this 29th day of May 2024.

Respectfully Submitted,

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