

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

**ORLANDO TOTAL HELP &
REHABILITATION CENTER, INC.,
a/a/o JANICE VASQUEZ**

CASE NO.: CVA1 09-54
Lower Court Case No.: 2008-CC-5124

Appellant,

v.

USAA CASUALTY INSURANCE COMPANY,

Appellee.

ORDER GRANTING MOTION FOR REHEARING

THIS MATTER came before the Court for consideration of Appellee, USAA Casualty Insurance Company's Motion for Rehearing filed on December 22, 2011. This Court having reviewed the motion, the Final Order Reversing Trial Court entered on December 8, 2011, the court file, and being otherwise fully advised in the premises, finds as follows:

Appellee does not seek rehearing of this Court's opinion reversing the summary final judgment and remanding the case to the trial court for further proceedings. However, Appellee moves for rehearing on the portion of this Court's order granting an award of appellate attorney's fees to Appellant, Orlando Total Help & Rehabilitation Center, Inc., a/a/o Janice Vasquez. Appellee argues that the award of the appellate attorney's fees was incorrectly granted because it did not include that the award be conditioned on Appellant ultimately obtaining a judgment against Appellee on remand. This Court concurs with Appellee in its motion for rehearing.

Accordingly, it is hereby **ORDERED AND ADJUDGED** that Appellee's Motion for Rehearing is **GRANTED**. Appellant, OTHRC's "Motion to Tax Attorney's Fees" filed

February 17, 2010 is granted, conditioned on Appellant ultimately prevailing in the litigation.

All other portions of the Final Order Reversing Trial Court entered on December 8, 2011 shall remain in effect.

DONE AND ORDERED in Chambers, at Orlando, Orange County, Florida on this 17th day of January, 2012.

/S/

JANET C. THORPE
Circuit Judge

/S/

GAIL A. ADAMS
Circuit Judge

/S/

ROBERT M. EVANS
Circuit Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Order has been furnished via U.S. mail to **Crystal L. Eiffert, Esquire and Chad A. Barr, Esquire**, Eiffert & Associates, P.A., 122 E. Colonial Drive, Suite 210, Orlando, Florida 32801; and **Douglas H. Stein, Esq. and Stephanie Martinez, Esquire**, Seipp & Flick, LLP, Two Alhambra Plaza – Suite 800, Miami, Florida 33134-5214; and **Julia Pinnell, Esquire and Virgil W. Wright, III, Esquire** (trial attorneys for appellee), Cameron, Hodges, Coleman, LaPointe & Wright, P.A., 111 North Magnolia Avenue, Suite 1350, Orlando, Florida 32801 on the 17th day of January, 2012.

/S/

Judicial Assistant