

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

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,

Petitioner,

v.

ALTAMONTE SPRINGS DIAGNOSTIC
IMAGING, INC. d/b/a PREMIER MEDICAL
IMAGING, a/a/o Ovidio Arnaiz,

Respondent.

Case No. 2018-CA-011094-O

Lower Case No.: 2016-SC-019948-O

Petition for Writ of Certiorari
from the Orange County Court,
Eric H. DuBois, County Judge.

Paul L. Nettleton, Esquire, and
Joseph H. Lang, Jr., Esquire,
for Petitioner.

Chad A. Barr, Esquire,
for Respondent.

Before O’KANE, ADAMS, and APTE, J.J.

PER CURIAM.

In this PIP case, State Farm Mutual Auto Insurance Co. (State Farm), the Defendant below, timely seeks certiorari review of the trial court’s Order on August 8, 2018 Hearing, which was entered in favor of Altamonte Springs Diagnostic Imaging, Inc. (ASD), the Plaintiff below.¹ We summarily deny the petition.

A discovery dispute between State Farm and ASD resulted in the trial court’s Order on August 8, 2018 Hearing, which ruled that State Farm and non-parties were in contempt of court,

¹We dispense with oral argument. Fla. R. App. P. 9.320.

and that ASD was entitled to monetary sanctions.² According to State Farm, the parties' underlying discovery dispute has been resolved. State Farm urges that the court's Order on August 8, 2018 Hearing was a departure from the essential requirements of law because it contained contempt rulings that were not announced by the court at the hearing and were otherwise unwarranted by the record. State Farm also urges that the court's imposition of monetary sanctions and the stigma caused by the court's contempt ruling result in irreparable harm.

However, contrary to State Farm's position, we determine that any error that might be present in the trial court's Order on August 8, 2018 Hearing may be readily corrected on direct appeal. *See Caruso v. Super Vision International, Inc.*, 845 So. 2d 947, 948 (Fla. 5th DCA 2003). Therefore, we conclude that appellate review by certiorari at the present time is inappropriate. *See Reeves v. Fleetwood Homes of Fla., Inc.*, 889 So. 2d 812, 822 (Fla. 2004) ("Limited certiorari review is based upon the rationale that 'piecemeal review of nonfinal trial court orders will impede the orderly administration of justice and serve only to delay and harass.'") (quoting *Jaye v. Royal Saxon, Inc.*, 720 So. 2d 214, 215 (Fla. 1998)); *Martin-Johnson, Inc. v. Savage*, 509 So. 2d 1097, 1098 (Fla. 1987) ("[C]ommon law certiorari is an extraordinary remedy and should not be used to circumvent the interlocutory appeal rule which authorizes appeal from only a few types of non-final orders."). As in *Caruso*, we deny State Farm's petition "without a determination on the merits, since any error can be corrected on direct appeal." 845 So. 2d at 948.

Accordingly, it is hereby **ORDERED AND ADJUDGED** as follows:

1. State Farm's petition for writ of certiorari, filed on October 11, 2018, is **DENIED** without prejudice to State Farm challenging the trial court's Order on August 8, 2018 Hearing on direct appeal.

² The Order provided that ASD could "seek a ruling from the Court on the amount of the sanctions, in the form of Plaintiff's attorney's fees and costs, at any time following the date of this Order."

2. ASD's motion for appellate attorney's fees pursuant to section 627.428, Florida Statutes, filed on November 21, 2018, is **CONDITIONALLY GRANTED**, in an amount to be determined below and subject to ASD's ultimate success in the underlying case.

3. State Farm's Motion to Travel Together and Notice of Related Cases, filed on November 21, 2018, is **DENIED AS MOOT**.

DONE AND ORDERED in Chambers, at Orlando, Orange County, Florida, on this _____ day of _____, 2019.

JULIE H. O'KANE
Presiding Circuit Judge

ADAMS and APTE, J.J., concur.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to the Honorable Eric H. DuBois, Orange County Judge, Orange County Courthouse, 425 N. Orange Ave., Orlando, FL 32801; Paul L. Nettleton, Esquire, Carlton Fields Jordan Burt, P.A., P.O. Box 3239, Tampa, FL 33601-3239 at pnettleton@carltonfields.com ; Joseph H. Lang, Jr., Esquire, Carlton Fields Jordan Burt, P.A., P.O. Box 3239, Tampa, FL 33601-3239 at jlang@carltonfields.com ; and Chad A. Barr, Esquire, Law Office of Chad A. Barr, P.A., 986 Douglas Ave., Suite 100, Altamonte Springs, FL 32714 at service@chadbarrlaw.com and chad@chadbarrlaw.com , on this _____ day of _____, 2019.

Judicial Assistant