

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

PROGRESSIVE AMERICAN
INSURANCE COMPANY,

Appellant,

v.

FLORIDA HOSPITAL MEDICAL
CENTER, a/a/o Margarita Torres,

Appellee.

CASE NOS.: 2017-CV-9-A-O
2017-CV-10-A-O
2017-CV-11-A-O
2017-CV-12-A-O
2017-CV-13-A-O
2017-CV-24-A-O

L.T. CASE NOS.: 2014-SC-8438-O
2013-SC-7534-O
2014-SC-11844-O
2013-SC-5856-O
2013-SC-8322-O
2014-SC-11826-O

PROGRESSIVE SELECT
INSURANCE COMPANY,

Appellant,

v.

FLORIDA HOSPITAL MEDICAL
CENTER, a/a/o Elizabeth Flanagan,

Appellee.

PROGRESSIVE EXPRESS
INSURANCE COMPANY,

Appellant,

v.

FLORIDA HOSPITAL MEDICAL
CENTER, a/a/o Tatiana Bayona,

Appellee.

PROGRESSIVE AMERICAN
INSURANCE COMPANY,

Appellant,

v.

FLORIDA HOSPITAL MEDICAL
CENTER, a/a/o Zoe Gainous,

Appellee.

PROGRESSIVE AMERICAN
INSURANCE COMPANY,

Appellant,

v.

FLORIDA HOSPITAL MEDICAL
CENTER, a/a/o Annmarie Selvin,

Appellee.

PROGRESSIVE AMERICAN
INSURANCE COMPANY,

Appellant,

v.

FLORIDA HOSPITAL MEDICAL
CENTER, a/a/o Dulce Corrales,

Appellee.

Appeals from the County Court,
for Orange County, Florida,
Steve Jewett, County Judge, and
Tina Caraballo, County Judge.

Michael C. Clarke, Esquire, and
Andrew T. Lynn, Esquire,
for Appellant.

Robert J. Hauser, Esquire,
for Appellee.

Before THORPE, MYERS, and O’KANE, J.J.

PER CURIAM.

ON CONFESSIONS OF ERROR

In these consolidated appeals, the Court previously granted Appellee’s motions to stay pending the resolution of Appellee’s petition for writ of certiorari in 5D19-1372, filed in the Fifth District Court of Appeal. In 5D19-1372, Appellee was seeking certiorari review of this Court’s opinion in *Progressive Select Insurance Company v. Florida Hospital Medical Center a/a/o Larry Hunt*, No. 2017-CV-000146-A-O (Fla. 9th Cir. Ct. Apr. 11, 2019) (“*Hunt*”), which according to Appellee “addressed a critical legal issue.”¹ Appellee was directed to give this Court prompt written notice once the decision of the Fifth District in 5D19-1372 became final.

Recently, the Fifth District denied certiorari in 5D19-1372. *Fla. Hosp. Med. Ctr. a/a/o Larry Hunt v. Progressive Select Ins. Co.*, No. 5D19-1372 (Fla. 5th DCA Oct. 22, 2019). On January 10, 2020, Appellee filed confessions of error, in which Appellee confessed error in light of this Court’s opinion in *Hunt*, and stated that the “appropriate procedure” is to set aside the summary judgments on appeal and to remand “for further proceedings in accordance with *Hunt*.” In view of Appellee’s confessions of error, the stays previously imposed in these appeals are now lifted. We reverse the summary

¹ In *Hunt*, this Court determined that the trial court erred in failing to follow *Progressive Select Insurance Co. v. Emergency Physicians of Central Fla.*, 202 So. 3d 437 (Fla. 5th DCA 2016), and in finding that the insurer was not entitled to contest the reasonableness of the provider’s bill.

judgments entered in these cases and remand to the trial court for further proceedings consistent with *Hunt*.

Appellant's motions for provisional award of appellate attorney fees, filed in 2017-CV-9-A-O, 2017-CV-10-A-O, 2017-CV-11-A-O, 2017-CV-12-A-O, 2017-CV-13-A-O, and 2017-CV-24-A-O, are granted, contingent on a judgment of no liability or a judgment obtained by Appellee that is at least 25% less than the amount of Appellant's proposal for settlement, and on the trial court's determination that Appellant's proposal for settlement is otherwise enforceable under section 768.79, Florida Statutes (2018), and Florida Rule of Civil Procedure 1.442. The assessment of those fees is remanded to the trial court.

Appellee's motions for appellate attorney's fees, filed in 2017-CV-9-A-O, 2017-CV-10-A-O, 2017-CV-11-A-O, 2017-CV-12-A-O, 2017-CV-13-A-O, and 2017-CV-24-A-O, are denied.

DONE AND ORDERED in Chambers, at Orlando, Orange County, Florida, on this _____ day of _____, 2020.

JANET C. THORPE
Presiding Circuit Judge

MYERS, C.J., and O'KANE, J., concur.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Order was furnished on this _____ day of _____, 2020 to the following: the Honorable Steve Jewett, Orange County Judge, Orange County Courthouse, 425 N. Orange Ave., Orlando, FL 32801; the Honorable Tina Caraballo, Orange County Judge, Orange County Courthouse, 425 N. Orange Ave., Orlando, FL 32801; the Honorable Gisela T. Laurent, Orange County Judge, Orange County Courthouse, 425 N. Orange Ave., Orlando, FL 32801; Michael C. Clarke, Esquire, Kubicki Draper, P.A., 400 N. Ashley Dr., Suite 1200, Tampa, FL 33602 at MC-KD@kubickidraper.com; Andrew T. Lynn, Esquire, Kubicki Draper, P.A., 400 N. Ashley Dr., Suite 1200, Tampa, FL 33602 at MC-KD@kubickidraper.com; Robert J. Hauser, Esquire, Pankauski Hauser PLLC, 415 S. Olive Ave., West Palm Beach, FL 33401 at courtfilings@phflorida.com;

Judicial Assistant