



25-000169261

BLUE SKY MEDICA & REHAB CENTER, LLC.,
A/A/O VICTORIA COLLADO

PLAINTIFF(S)

VS.

THE RESPONSIVE AUTO INSURANCE
COMPANY

DEFENDANT(S)

SUMMONS, COMPLAINT

CASE #: 2025-106498-SP-21
COURT: ELEVENTH JUDICIAL CIRCUIT COURT
COUNTY: MIAMI-DADE
DFS-SOP #: 25-000169261

NOTICE OF SERVICE OF PROCESS

NOTICE IS HEREBY GIVEN of acceptance of Service of Process by the of the State of Florida. Said process was received in my office by ELECTRONIC DELIVERY on Tuesday, July 1, 2025 and a copy was forwarded by ELECTRONIC DELIVERY on Wednesday, July 2, 2025 to the designated agent for the named entity as shown below.

RESPONSIVE AUTO INSURANCE COMPANY (THE)
JOHN D MACHUL
SUITE 1000 8151 PETERS ROAD
PLANTATION, FL 33324

***Our office will only serve the initial process (Summons and Complaint) or Subpoena and is not responsible for transmittal of any subsequent filings, pleadings, or documents unless otherwise ordered by the Court pursuant to Florida Rules of Civil Procedure, Rule 1.080.**

PAUL KEVIN SCHRIER
PRESIDENT
PAUL K. SCHRIER, PLLC.
11098 BISCAYNE BLVD SUITE 208
MIAMI, FL 33161

JD1

<input type="checkbox"/> IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA. <input type="checkbox"/> IN THE COUNTY COURT IN AND FOR MIAMI-DADE COUNTY, FLORIDA.		
DIVISION <input type="checkbox"/> CIVIL <input type="checkbox"/> DISTRICTS <input type="checkbox"/> OTHER	SUMMONS 20 DAY CORPORATE SERVICE (a) GENERAL FORMS	CASE NUMBER 2025-106498-SP-21
PLAINTIFF(S) BLUE SKY MEDICAL & REHAB CENTER, LLC., A/A/O VICTORIA COLLADO	VS. DEFENDANT(S) THE RESPONSIVE AUTO INSURANCE COMPANY	SERVICE

THE STATE OF FLORIDA:

To Each Sheriff of the State:

YOU ARE COMMANDED to serve this summons and copy of the complaint or petition in this action on
 defendant(s): The Responsive Auto Insurance Company c/o

Florida Chief Financial Officer as RA

Service of Process Section, 200 East Gaines Street

Tallahassee, Florida 32314

Each defendant is required to serve written defense to the complaint or petition on

Plaintiff's Attorney: Paul K. Schrier, Esquire



whose address is: SCHRIER LAW GROUP

11098 Biscayne Boulevard, Suite 208

Miami, Florida 33161

CLOCK IN

within 20 days “ **Except when suit is brought pursuant to s. 768.28, Florida Statutes, if the State of Florida, one of its agencies, or one of its officials or employees sued in his or her official capacity is a defendant, the time to respond shall be 40 days. When suit is brought pursuant to. 768.28, Florida Statutes, the time to respond shall be 30 days.**” after service of this summons on that defendant, exclusive of the day of service, and to file the original of the defenses with the Clerk of this Clerk Court either before service on Plaintiff's attorney or immediately thereafter. If a defendant fails to do so, a default will be entered against that defendant for the relief demanded in the complaint or petition.

JUAN FERNANDEZ- BARQUIN, CLERK OF COURT AND CONTROLLER	  219720 DEPUTY CLERK	DATE 7/1/2025
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AMERICANS WITH DISABILITIES ACT OF 1990
ADA NOTICE

“If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Aliean Simpkins, the Eleventh Judicial Circuit Court’s ADA Coordinator, Lawson E. Thomas Courthouse Center, 175 NW 1st Avenue, Suite 2400, Miami, FL 33128; Telephone (305) 349-7175; TDD (305) 349-7174, Email ADA@jud11.flcourts.org; or via Fax at (305) 349-7355, at least seven (7) days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than seven (7) days; if you are hearing or voice impaired, call 711.”

IN THE COUNTY COURT OF THE
ELEVENTH JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA.

BLUE SKY MEDICAL & REHAB CENTER, LLC.
A/A/O VICTORIA COLLADO

Petitioner,

v.

CASE NO:

THE RESPONSIVE AUTO INSURANCE COMPANY

Respondent.

_____ /

PETITION FOR DECLARATORY RELIEF

COMES NOW, the Petitioner, BLUE SKY MEDICAL & REHAB CENTER, LLC., as
assignee of VICTORIA COLLADO, by and through undersigned counsel, hereby sues
Respondent, THE RESPONSIVE AUTO INSURANCE COMPANY, and in support thereof
alleges:

1. This is a pure action for declaratory relief pursuant to Chapter 86, Florida Statutes and the relief sought herein is solely equitable in nature as Petitioner seeks a declaration of insurance coverage, with respect to the interpretation and construction of the rights, obligations, and exclusions contained in an automobile insurance policy in an amount more than \$101.00 but less than \$500 excluding attorney's fees and costs.
2. This Court has subject matter jurisdiction pursuant to Fla. Stat. §86.011.
3. At all times material hereto, Respondent, THE RESPONSIVE AUTO INSURANCE COMPANY was a duly authorized insurance company, organized and incorporated under

the Laws of Florida or authorized to transact insurance business in the State of Florida.

4. At all times material hereto, the Petitioner, BLUE SKY MEDICAL & REHAB CENTER, LLC. was doing business in the State of Florida.
5. Venue is proper in Miami-Dade County, Florida because this claim arose near Miami-Dade County, Florida, or the bills were to be paid in Miami-Dade County, Respondent sufficiently transacts business in Miami-Dade County, Florida or the issue concerns the legal interpretation of a contractual term vis-à-vis Respondent's claim adjusting process in limiting coverage below full coverage as required by Florida law.
6. For valuable consideration, at all times material hereto, Respondent's, THE RESPONSIVE AUTO INSURANCE COMPANY, policy of automobile insurance was in force and effect and provided coverage to VICTORIA COLLADO, under Policy/Claim Number C0000017705. The aforementioned policy of insurance issued by THE RESPONSIVE AUTO INSURANCE COMPANY was required by law to comply with Florida Statutes §627.730 and §627.7405. (Respondent is in possession of the policy of insurance, and is aware of the coverage it promised to provide).
7. Pursuant to the terms thereof, Respondent agreed to pay, in accordance with the Florida Motor Vehicle No-Fault Law, and not less than Florida Statutes section 627.730 et seq., to or for the benefit of the injured person, including the patient, VICTORIA COLLADO, medical benefits provided for thereunder.
8. On or about SEPTEMBER 16, 2022, VICTORIA COLLADO, was traveling in a motor

vehicle that was involved in an automobile accident the State of Florida.

9. Said automobile accident caused the patient, VICTORIA COLLADO, to suffer personal injury and incur medical expenses.
10. As a direct and proximate result of the injuries the patient sustained in the collision, the patient sought medical, rehabilitative, nursing and/or remedial care.
11. VICTORIA COLLADO sought treatment from Assignee and intended to assign his PIP benefits to BLUE SKY MEDICAL & REHAB CENTER, LLC., and BLUE SKY MEDICAL & REHAB CENTER, LLC., intended to accept an assignment of VICTORIA COLLADO's benefits in exchange for the medical services provided by BLUE SKY MEDICAL & REHAB CENTER, LLC.. Evidence of VICTORIA COLLADO's intent to assign his PIP benefits to BLUE SKY MEDICAL & REHAB CENTER, LLC., and BLUE SKY MEDICAL & REHAB CENTER, LLC.'s intent to accept an assignment of VICTORIA COLLADO 's benefits in exchange for the medical services provided can be further established by writing, parol, or other course of conduct, including but not limited to the health insurance claim form previously provided to Respondent by the medical provider (i.e. the HCFA/CMS-1500 Health Insurance Claim Form). In the alternative, VICTORIA COLLADO has appointed the Petitioner as its agent for purposes of enforcing its right to payment under the subject policy of motor vehicle insurance. If for some reason the Court determines that a valid written assignment does not exist, an equitable assignment can be found based on the actions of Respondent and Petitioner in that

Respondent made payment(s) to the medical provider for less than the amount charged.

See *Giles v. Sun Bank*, 450 So.2d 258 (Fla.5th DCA 1994).

12. Through the assignment of benefits and Chapter 86.021, Fla. Stat., Plaintiff has standing to bring this action. (See attached Exhibit A)
13. As a result of the aforesaid accident, the patient, VICTORIA COLLADO, underwent reasonable and necessary medical treatment and has incurred reasonable, usual and customary medical expenses.
14. Subsequent thereto, the Petitioner, BLUE SKY MEDICAL & REHAB CENTER, LLC., submitted a claim for PIP benefits to Respondent, THE RESPONSIVE AUTO INSURANCE COMPANY for coverage of the related, reasonable and necessary medical expenses which were incurred as a result of the injuries suffered by the patient, VICTORIA COLLADO in the SEPTEMBER 16, 2022 motor vehicle accident.
15. Respondent has been placed on notice that the patient, VICTORIA COLLADO, has been diagnosed with an emergency medical condition thus coverage limits for personal injury protection coverage has been extended beyond \$2500 per Section 627.736(a)(3) and (4), Fla. Stat.
16. That the Petitioner has complied with all statutory conditions precedent to recover under said policy and has recovered from Respondent less than coverage set forth in the regulatory statute.
17. That the Petitioner has complied with Section 627.736(5)(c) by timely submitting the

medical bills for payment to Respondent and Respondent has wrongfully afforded less than full coverage for the services Petitioner provided.

**COUNT I - DECLARATION OF RIGHTS AGAINST THE RESPONSIVE AUTO
INSURANCE COMPANY ON BEHALF OF BLUE SKY MEDICAL & REHAB
CENTER, LLC., DETERMINATION OF CORRECT FEE SCHEDULE
METHODOLOGY**

Petitioner re-alleges and re-affirms the allegations contained in paragraphs one (1) through seventeen (17) as though fully alleged herein, and further alleges as follows:

18. Petitioner has complied with Section 627.736(5)(c) by timely submitting the medical bills for payment to Respondent and Respondent has wrongfully afforded less than full coverage authorized under Florida Law for the services Petitioner provided.
19. Respondent has taken the position that it elected the statutory fee schedule reimbursement methodology of Fla. Stat. §627.736(5)(a)1, et seq.¹
20. Petitioner is of the class of providers who are to be statutorily compensated according to Fla. Stat. §627.736(5)(a)1.f.
21. In 2012, in re-writing the Florida Motor vehicle No-fault law, the Florida Legislature deleted the words “participating physicians” from Fla. Stat. §627.736(5)(a)1.f. when referring to the Medicare Part B schedules for 2007.
22. The significance of deleting the words “participating physicians” from Fla. Stat.

¹ Solely for purposes of the instant count, Petitioner is not contesting whether Respondent elected the statutory fee schedule methodology of Fla. Stat. §627.736(5)(a)1. Petitioner reserves the right to challenge Respondent’s purported election and may seek to amend its petition after obtaining discovery in the instant matter.

§627.736(5)(a)1.f results in differing levels of coverage for claims where the 2007 Medicare Part B fee schedule provides a higher coverage rate than the participating physicians fee schedule for the year in which the services were rendered. For these claims, the 2007 Medicare Part B provides for two available coverage amounts for non-hospitals for services rendered by Petitioner: the non-facility participating price or non-facility limiting charge.

23. For this claim and for one or more of the services Petitioner performed had a higher coverage rate per the 2007 Medicare Part B rate in 2007 vis-à-vis the service year in which services were performed.
24. The Legislature is presumed to not enact useless changes in the law. Accordingly, deleting the words “participating physicians” must be given full effect. In 2012, the Legislature could not have intended to include the 2007 “participating physicians” fee schedule in the coverage methodology by removing “participating physicians” fee schedule and substituting “applicable.”
25. The effect of the change in law was to give PIP insureds greater coverage and to require insurers to afford coverage at the 2007 limiting charge rate.
26. Respondent’s response to Petitioner’s charges was to afford coverage at the at the Budget Neutralization Adjustment which is less coverage than the minimum coverage.

27. For one or more of Petitioner's services, the Centers for Medicare and Medicaid Services (hereinafter "CMS") provides Relative Value Unit ("RVU")² information in the RVU Files³.
28. The allowable amount under the participating physicians' fee schedule (i.e., the non-facility participating price) for the service year is calculated by multiplying (1) the relative value of the service at issue; (2) the conversion factor for the particular year (CF); and (3) the geographic adjustment factor applicable to the locality in which the service was provided (GPCI). *See*, 42 U.S.C. § 1395w-4(b)(1). The general formula is $[(RVU_w \times GPCI_w) + (RVU_{pe} \times GPCI_{pe}) + (RVU_{mp} \times GPCI_{mp})] \times CF$ (the "General Formula") x multiply the fee schedule amount by a factor of 1.0925 to calculate the Medicare limiting charge for a physician service for a locality.
29. The allowable amount under the limiting charge fee schedule (i.e., the non-facility limiting charge) for 2007 is calculated by multiplying (1) the relative value of the service at issue; (2) the conversion factor for the particular year (CF); and (3) the geographic adjustment factor applicable to the locality in which the service was provided (GPCI). *See*, 42 U.S.C. § 1395w-4(b)(1). The general formula is $[(RVU_w \times GPCI_w) + (RVU_{pe} \times$

² "Relative values" are a reference to the relative value units (RVUs) for the provider's professional services (work RVU or RUVw), practice expenses (practice expense RVU or RVUpe), and malpractice insurance expenses (malpractice RVU or RVUmp). The RVUs and other variables to calculate fee schedule amounts are contained in the National Physician Fee Schedule Relative Value Files maintained by CMS and are available to the public on the CMS website and in the Federal Register.

³ *See* <https://www.cms.gov/medicare/medicare-fee-for-service-payment/physicianfeesched/pfs-relative-value-files>

$GPCI_{pe}) + (RVU_{mp} \times GPCI_{mp})] \times CF$ (the “General Formula”) x multiply the fee schedule amount by a factor of 1.0925 to calculate the Medicare limiting charge for a physician service for a locality.

30. Thus, by providing for RVUs, CMS has provided the values from which the reimbursement rate under the 2007 limiting charge fee schedule of Medicare Part B rate may be determined.
31. Plaintiff avers that a CPT code alone, even in conjunction with a cursory review of the CMS payment files, is insufficient to establish that a code is “not reimbursable under Medicare Part B, as provided in...sub-subparagraph [§627.736(5)(a)1.f.]”.
32. Accordingly, for the services where the 2007 Medicare Part B fee schedule exceeds the participating physicians fee schedule in the year that the services were provided, Respondent’s resorting to the Budget Neutralization Adjustment is incompatible with the coverage determination set forth in Section 627.736(5)(a)1.f. is wrongful and improper under this claim.
33. Respondent contends otherwise and takes the position that it was permitted to apply the fee schedule with the budget neutralization reduction.
34. Respondent wrongfully refused to apply its coverage to services per Section 627.736(5)(a)1.f., Fla. Stat.
35. Based on the divergent positions of both parties, Petitioner is in doubt of his rights as the coverage issue whether it is legally permissible for Respondent to utilize the budget

neutralization adjustment when the budget neutralization adjustment is not in its policy.

36. The state of facts alleged above, and the divergent contentions with respect thereto, have created a bona fide, actual, present, and practical need for a judicial declaration regarding the correct reimbursement.
37. Petitioner is in doubt of his rights as the issue concerning whether it is legally permissible for Respondent to reduce coverage for Petitioner's services despite the policy and statute provided to the contrary of Respondent's position.
38. Respondent has refused to re-adjust this claim subsequent to becoming aware of the wrongful manner of its denying the coverage to the services submitted, and has thus violated Section 627.736(11) (a) 2, Fla. Stat.
39. Petitioner is in need of the present declaration of rights under the subject insurance policy and Florida law.
40. The facts necessary for this Honorable Court to render Petitioner's declaration of rights are set forth in this Complaint and/or are ascertainable by this Honorable Court.
41. Petitioner's right to recovery under the subject insurance policy is dependent upon this Court's finding of facts and/or application of Florida law.
42. The Respondent's interest in this declaration of rights is actual, present, adverse and antagonistic in fact and/or law to Petitioner's interest.
43. All parties whose interests are adverse and antagonistic are before this Honorable Court by proper process.

44. Petitioner seeks relief in order to enforce his contractual and/or legal rights, not to merely seek legal advice from this Honorable Court.

45. BLUE SKY MEDICAL & REHAB CENTER, LLC. specifically pleads for attorney fees.

Further, Petitioner has retained Schrier Law Group and Paul K. Schrier, Esq., to act on its behalf in this action. Petitioner seeks and is entitled to an award of reasonable attorney fees and costs as the Respondent induced necessity of bringing this action pursuant to Florida Statutes Sections 57.041, 86.011, 86.081, 92.231, 627.736(8) and 627.428 and all other applicable Florida Law. Petitioner assigns any and all attorney's fees and costs awarded to it by settlement and/or final judgment to Paul K. Schrier, PLLC f/b/o BLUE SKY MEDICAL & REHAB CENTER, LLC..

WHEREFORE, Petitioner, BLUE SKY MEDICAL & REHAB CENTER, LLC., moves this Honorable Court to take jurisdiction of the parties above, the subject matter herein, and grant the Plaintiff the following relief:

- (A) Accept jurisdiction of this matter;
- (B) Declare the rights, obligations and duties of the parties to this contract;
- (C) Declare that the correct methodology for one or more of Petitioner's services requires an insurer to look beyond the CMS payment files and actually examine the relative value units (RVUs) and apply the formula to arrive at the true reimbursement amount as provided in §627.736(5)(a)1.f.;

- (D) Declare that each policy provision not confirming to Florida Law be amended to conform with Florida Law.
- (E) Determine that the Respondent wrongfully provided less coverage by affording less than the correct amount of the coverage.
- (F) Determine that Respondent has refused to re-adjust this claim subsequent to becoming aware of the wrongful manner of its applying the coverage to the services, and has thus violated Section 627.736(11)(a) 2, Fla. Stat.
- (G) Declare that the Respondent has violated the equitable law of Florida.
- (H) Determine and declare any other material matters pertaining to the coverage or otherwise as to respective rights and responsibilities of a party under the policy as required to do complete justice in this cause as appropriate in this case.
- (I) Enforce the terms, conditions, rights and/or obligations under the subject insurance policy in favor of the Plaintiff and against the Respondent; and
- (J) Award a judgment in favor of the Petitioner against the Respondent;
- (K) Declare the Petitioner is entitled to attorneys' fees and costs pursuant to: Sections 57.041, 86.011, 86.081, 92.231, 627.736(8) and 627.428, Florida Statutes,

WHEREFORE, Petitioner demands declaratory relief pursuant to §86.011 et seq, and further demands attorney's fees and costs pursuant to Sections 57.041, 86.011, 86.081, 92.231, 627.736(8) and 627.428, Florida Statutes. Petitioner further demands trial on all issues so triable and the above specific relief.

Dated June 20, 2025

Respectfully submitted,

/s/ Paul K. Schrier, Esq.

Paul K. Schrier, Esquire

Florida Bar No.: 622590

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