

603 So.2d 125, 17 Fla. L. Weekly D1861
(Cite as: 603 So.2d 125)

C

District Court of Appeal of Florida,
Second District.

Linda BURT and Jesse L. Burt, Husband and Wife,
Petitioners,

v.

GOVERNMENT EMPLOYEES INSURANCE
COMPANY, a Corporation, Respondent.

No. 92-01870.

Aug. 7, 1992.

In personal injury action, the Circuit Court, Lee County, William C. McIver, J., issued order compelling plaintiff to answer deposition questions. On petition for writ of certiorari, the District Court of Appeal held that attorney-client privilege did not apply to question about when plaintiff obtained counsel, but applied to question as to whether counsel referred plaintiff to particular physician.

Petition granted; order quashed in part.

West Headnotes

[1] Privileged Communications and Confidentiality 311H ⚡102

311H Privileged Communications and Confidentiality

311HIII Attorney-Client Privilege

311Hk102 k. Elements in General; Definition. Most Cited Cases

(Formerly 410k205)

Contents of confidential communication between attorney and client are privileged and not discoverable. West's F.S.A. § 90.502.

[2] Privileged Communications and Confidentiality 311H ⚡146

311H Privileged Communications and Confidentiality

311HIII Attorney-Client Privilege
311Hk144 Subject Matter; Particular Cases
311Hk146 k. Client Information; Retainer and Authority. Most Cited Cases
(Formerly 410k205)

Attorney-client privilege did not apply to personal injury defendant's counsel's deposition question asking plaintiff when she obtained counsel. West's F.S.A. § 90.502.

[3] Privileged Communications and Confidentiality 311H ⚡145

311H Privileged Communications and Confidentiality

311HIII Attorney-Client Privilege

311Hk144 Subject Matter; Particular Cases

311Hk145 k. In General. Most Cited Cases

(Formerly 307Ak183.1, 307Ak183)

Attorney-client privilege precluded order compelling personal injury plaintiff to answer deposition question as to whether counsel referred her to particular physician. West's F.S.A. § 90.502.

*125 Mark A. Steinberg of Goldberg, Goldstein & Buckley, P.A., Fort Myers, for petitioners.

Robert C. Shearman of Henderson, Franklin, Starne & Holt, Fort Myers, for respondent.

PER CURIAM.

The plaintiffs, husband and wife in this personal injury case, petition this court for a writ of certiorari to quash an order compelling the wife to answer certain questions at a deposition. Defendant's counsel asked the wife two questions at her deposition: when did the wife obtain counsel and did counsel refer her to a particular physician. She refused to answer and asserted the attorney-client privilege. We grant the petition.

[1][2][3] The contents of confidential communications between the attorney and client are privileged

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and not discoverable. See § 90.502, Fla.Stat. (1991); *Upjohn Co. v. United States*, 449 U.S. 383, 101 S.Ct. 677, 66 L.Ed.2d 584 (1981). Although the first question does not violate the attorney-client privilege in this instance, the second question seeks discovery of confidential communications constituting her attorney's advice regarding this lawsuit. Such advice is not intended to be disclosed to third parties. The question does not elicit the *126 underlying fact of whether she saw a particular physician, but rather elicits whether she saw the physician at her attorney's request. Because this communication does not fall within any of the enumerated exceptions to the privilege listed in section 90.502, we grant the petition and quash that portion of the order requiring the wife to answer the second question.

The petition for certiorari is granted, and the circuit court's order is quashed in part.

LEHAN, C.J., and PARKER and PATTERSON, JJ., concur.

Fla.App. 2 Dist., 1992.

Burt v. Government Employees Ins. Co.

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