

**IN THE COUNTY COURT OF THE THIRTEENTH JUDICIAL CIRCUIT  
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA**

**BAIN COMPLETE WELLNESS, LLC,  
as assignee of Kerri McDougald,**

**Plaintiff,**

v.

**Case No: 16-CC-028803 Div: I**

**GARRISON PROPERTY AND CASUALTY  
INSURANCE COMPANY, a foreign corporation,**

**Defendant.**

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**ORDER**

THIS CAUSE came on for hearing before the Court on September 19, 2019, upon Plaintiff's Motion for Rehearing and Defendant's Response in Opposition to Plaintiff's Motion for Rehearing. Counsel for both parties appeared before the Court. After having heard arguments of counsel, considered all Motions and Responses, and being otherwise duly advised in the premises, the Court finds as follows:

1. On June 21, 2018, a hearing took place before the Court on Defendant's Motion for Summary Judgment for Failure to Serve a Statutorily Compliant Pre-Suit Demand filed December 1, 2016 and Defendant's Motion for Sanctions Pursuant to Florida Statute § 57.105 (Failure to Serve Pre-Suit Demand) filed April 11, 2017. Additionally, prior to hearing argument on Defendant's Motions, the Court allowed argument on Plaintiff's Motion for Continuance filed June 20, 2018.
2. At the June 21, 2018 hearing, Plaintiff made an *ore tenus* dismissal of the case.
3. On September 11, 2018, this Court entered an Order Denying Plaintiff's Motion for Continuance, Order Deeming Defendant's Motion for Summary Judgment Moot, and

Order Granting Defendant's Motion for Sanctions Pursuant to Florida Statutes Section 57.105.

4. Plaintiff then filed its Motion for Rehearing on September 25, 2018, which was followed by Defendant's Response to Plaintiff's Motion for Rehearing on October 1, 2018.
5. After hearing the arguments of Plaintiff and Defendant's arguments in opposition, the Court stands by its original Order from September 11, 2018. The Court's authority in granting Defendant's Motion for Sanctions Pursuant to Florida Statute § 57.105 (Failure to Serve Pre-Suit Demand) rests on *Chambers Medical Group, Inc., v. Progressive Express Ins. Co.*, 14 Fla. L. Weekly Supp. 207a (Fla. 13th Cir. App. 2006). The same issues and same law were argued at the Motion for Rehearing as were previously argued at the June 21, 2018 hearing.

Based on the foregoing, it is ORDERED and ADJUDGED that Plaintiff's Motion for Rehearing is DENIED.

DONE AND ORDERED in Hillsborough County, Tampa, Florida on this \_\_\_\_ day of \_\_\_\_\_ 2019.

Electronically Conformed 10/10/2019

~~Joelle Ann Ober~~ \_\_\_\_\_  
Honorable Joelle Ann Ober

Conformed copies to:

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