

Florida



LUKS, SANTANIELLO
— **PETRILLO & COHEN** —
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Jairo Lanao, Partner

Dismissal obtained

PIP Partner Jairo Lanao, Esq., obtained dismissal in the matter styled Jorge Perez v. United Automobile Insurance Co. The lawsuit was filed in 2012 on behalf of United Auto's named insured, Jorge Perez, for an auto accident on February 24, 2011, in which he was driving his wife's vehicle. After receiving treatment for his injuries at a chiropractor and medical doctor, United Auto denied payment of his medical expenses on the grounds that his wife's vehicle was not insured by United Auto, but by Travelers Insurance. Thus, it fell under an exclusion clause of the policy which precluded coverage of a claim occurring in a vehicle owned by any of the named insured spouses but not listed on the policy. The Plaintiff filed a claim for a declaratory judgment, seeking to have the court declare that at a minimum, the two insurers, United Auto and Travelers, should pay "pro rata" or, alternatively, United Auto should be liable as the husband was its named insured and, as such, United could not deny coverage as to his own spouse's vehicle.

The United Auto policy, just like the Travelers policy, contained a general definition of a "named insured and the spouse if a resident of the named insured". United Auto's motion for summary judgment called attention to the fact that both the United Auto and Travelers policies contained the same definition of a named insured and their spouses, as well as the exclusion clause pertaining to a vehicle owned by a spouse but not listed on the policy. Mr. Lanao, on behalf of United, served a motion for sanctions supported by case law from several courts of appeal tracking similar policy language and holdings of no right of recovery. Persuaded by Mr. Lanao's arguments, Plaintiff's counsel was forced to dismiss the case within the 21-day safe harbor period and prior to the hearing on the still pending motion for summary judgment.