

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

JUDITH A. BEDWELL,

Petitioner,

v.

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

CASE NO. 1D15-2686

STONE CONTAINER
CORPORATION AND
BROADSPIRE INSURANCE,

Respondents.

_____ /

Opinion filed September 30, 2015.

Petition for Writ of Certiorari.

Bill McCabe, Longwood, for Petitioner.

William H. Rogner of Hurley, Rogner, Miller, Cox, & Waranch, P.A., Winter
Park, for Respondents.

PER CURIAM.

In this workers' compensation case, Claimant petitions the court for a writ of certiorari quashing the Judge of Compensation Claims' (JCC's) order compelling her to undergo an independent medical examination (IME) requested by the Employer/Carrier in response to her claim for medical benefits. Claimant argues that

the JCC departed from the essential requirements of the law because the JCC did not have the statutory authority to compel an IME. We deny the petition because the law governing this June 22, 1987, date of accident gives the JCC broad discretion in ordering an IME. See, e.g., Berry Corp. v. Smith, 576 So. 2d 1366, 1367 (Fla. 1st DCA 1991) (holding JCC authorized to order IME using investigatory power provided in section 440.29(1), Florida Statutes (1987)).

We write to address a second point argued by Claimant in support of her petition—one that reveals a common misunderstanding of the required element of a departure from the essential requirements of law. Specifically, Claimant argues that the JCC departed from the essential requirements of law because, under the circumstances alleged as true by Claimant, the law requires that Claimant must prevail on the issue of medical necessity of the medical benefits claimed; i.e., her entitlement to benefits is essentially assured. However, at this time, neither this particular legal issue, nor any other potential defense thereto, has been tried or adjudicated by the lower tribunal. And, any subsequent adjudication of such issues will be subject to plenary review on appeal. In short, the undetermined and inchoate merits of the untried claim for medical benefits is irrelevant to the question of whether the JCC departed from the essential requirements of the law when she ordered Claimant to undergo an IME in the midst of an unresolved and still-litigated medical dispute.

Because Claimant failed to demonstrate a departure from the essential requirements of law, the petition for writ of certiorari is DENIED.

WOLF, THOMAS, and KELSEY, JJ., CONCUR.