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CASE NOTES
CASE LAW SUMMARY
April 2009

If you have any questions regarding Case Law Summaries, please contact W. Rogers Turner, Jr. : rturner@hrmcw.com

Jurisdiction of Appellate Court/Petition for Writ of Certiorari

Medley Hardwoods/Optacom v. Rojas, (Fla. 1st DCA 3/23/2009) The Appellant’s Petition for Writ of Certiorari was dismissed, as the court had no jurisdiction to rule. Florida Rule of Appellate Procedure 9.100(c)(1) provides that Petitions for Certiorari shall be filed within 30 days of the date of entry of the Order in question. As the Petition was received 33 days after entry of the Order, the DCA was without jurisdiction to consider appellant’s Petition. [Click here to read case](#)

Attorney Fees/Reasonableness of Claimant paid appellate fee

Capps v. Industrial Blowpipe/Broadspire (William H. Rogner for Appellee) (Fla. 1st DCA 4/21/09) The First DCA affirmed a ruling of JCC Portuallo denying the claimant attorney an appellate fee to be paid by his client. The claimant sustained an accident in 1985. Many years later, the claimant was awarded attendant care at the JCC level. This award was appealed, and reduced significantly. The claimant attorney received a statutory E/C paid fee on the amount of benefits obtained. The claimant then sought JCC approval of a claimant paid appellate fee from the JCC. The JCC found (1) he did not have jurisdiction to approve the fee order (as he felt jurisdiction had not been relinquished by the appellate court), but if he did (2) the fee was unreasonable as the attorney had already been paid based on all of the benefits received. The DCA found the JCC did have jurisdiction to rule on the petition for an employee paid fee, and that competent, substantial evidence supported his finding that the claimant attorney had been compensated for all benefits obtained, and thus

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no appellate fee was due. [Click here to read case](#)