



Case Law Update

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This Update contains summaries of all relevant Appellate decisions for the preceding week, with comments on how a particular decision affects you. In addition, we review daily the Merit Orders posted on the DOAH website. This Update contains summaries and links to relevant JCC decisions for the past week.

Please feel free to contact Rogers Turner (rturner@hrmcw.com) or Matthew Troy (mtroy@hrmcw.com) with questions or comments on any of the listed cases.

*District Court of Appeal Cases***

Flores-Orellana v. Circle K/Constitution State Ins.,

(Fla. 1st DCA 8/5/2014)

Writ of Mandamus/Requirement that JCC set hearing

Claimant was adjudicated PTD in 2011. Thereafter, she settled a separate wage and hour claim against the employer. Based upon language in that agreement that the claimant purportedly settled “all claims” against the employer, the E/C ceased paying the claimant PTD. She then filed a PFB seeking reinstatement of her PTD. The JCC denied the E/C’s Motion for Summary Final Order. On the date of the Final Hearing in August of 2013, the JCC cancelled the Final Hearing, dismissed the PFB for PTD, and told the parties to schedule a hearing on a Petition to Modify. A month later, a Federal Judge set aside the claimant’s wage and hour settlement, and a month thereafter, the E/C reinstated the claimant’s PTD benefits. In April of 2014, the claimant then asked the JCC to set a hearing on the Petition to Modify, which the JCC denied, indicating that too much time had passed since the Order became final. The DCA granted the claimant’s Petition for Mandamus, which requires that the Petitioner show (1) a clear legal right; (2) an indisputable legal duty on the part of the respondent; and (3) no other adequate remedy exists. The court found the claimant had a right to have the hearing on the Petition to Modify, the JCC had a duty to set the hearing, and no other remedy existed. The opinion notes that “both claimant and the E/C have the right to claims and pending legal rights adjudicated”.

[Click here to view Opinion](#)

Please note that the DCA Opinions and Merit Orders contained in this newsletter are non-final until 30 days after their rendition. Until that time, they are subject to amendment, vacation, or other action which may remove or alter some or all of the decision. Please contact any HRMCWW attorney if you have a question as to the finality and applicability of an Opinion or Order. We endeavor to include any amendments or alterations to Opinions or Orders that may occur at a later date.

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