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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.

First District Court of Appeal Cases

Jose v. Goodwill Industries/Gallagher Bassett
Compensability/Objective Medical Evidence

(Fla.1st DCA 1/23/14)

Bill Rogner

The DCA affirmed the JCC's denial of benefits arising out of a fainting incident at work, noting the claimant failed to prove the existence of any injury due to the fall through requisite medical testimony. Claimant fainted while at work, and was thereafter examined by IMEs for each party. Claimant's IME diagnosed a host of conditions, and initially related them to the fall based on the claimant's description of accident. However, this doctor admitted that the only support for these opinions was claimant's subjective complaints, and that no x-rays or CT scans taken at the hospital showed the presence of any injury. The E/C's IME testified that some of the claimant's reported pain was related to the fall, but his testimony did not identify any specific injury. The court noted that the CT scan taken on the date of injury showed a hematoma and some hemorrhaging, but neither doctor was asked or testified whether those findings were causally related to the accident. The DCA noted that F.S.s. 440.09(1)(2001) requires that "[t]he injury, its occupational cause, and any resulting manifestations or disability *must be established to a reasonable degree of medical certainty, based on objective relevant medical findings[.]*" As claimant failed to provide evidence conforming to this standard, the JCC correctly denied that the claimant suffered any injury as a result of his fall. [Click here to view Opinion](#)

Pena v. Design/Build Interamerican, et al.
WC Immunity/Material Issues of Fact

(Fla.3d DCA 1/22/14)

The DCA reversed the circuit court's grant of summary judgment based upon workers' compensation immunity as to all but the defendant corporate owner. Claimant sustained severe injuries while delivering pipe to a job site. The evidence was conflicting as to exactly which of several related entities actually employed the claimant, either Royal Plumbing (subcontractor) or One Stop Plumbing (parts supplier). After the accident, claimant received WC benefits from State Farm, who insured both entities for comp. However, as the evidence showed that defendant Gonzalez owned both companies, the court affirmed summary judgment as to his entitlement to immunity. [Click here to view Opinion](#)

Young v. American Airlines/Sedgwick
Medical Evidence/Ability of JCC to reject uncontroverted testimony

(Fla. 1st DCA 12/31/13)

The claimant previously appealed the JCC's denial of PTD, where the JCC relied upon the E/C's unauthenticated IME report. On remand, the DCA instructed the JCC to enter an Order awarding PTD, unless he found the opinions of Dr. Kleinhaus "unpersuasive". The JCC did just that, denying PTD and finding the doctor's opinions to be unpersuasive. The claimant appealed again, and the DCA reversed the JCC, holding he did not provide a valid reason (such as relying upon an incorrect history, or inherent illogic or incredibility) for rejecting the uncontroverted medical evidence provided by Dr. Kleinhaus. This time, the DCA simply reversed, instructing the JCC to award the claimant PTD benefits. [Click here to view Order](#)

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