



## Case Law Update

January 15, 2016

**WINTER PARK**  
1560 ORANGE AVENUE, SUITE 500  
WINTER PARK, FL 32789  
TEL: (407) 571-7400  
FAX: (407) 571-7401  
[www.hrmcw.com](http://www.hrmcw.com)

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](mailto:rturner@hrmcw.com)) or Matthew Troy ([mtroy@hrmcw.com](mailto:mtroy@hrmcw.com)) with questions or comments on any of the listed cases.

**NO NEW DCA DECISIONS SINCE 1/8/16 EDITION**

### *District Court of Appeal Cases*

**Thyssenkrupp Elevator/Sedgwick v. Blackmon,**  
**Entitlement to Appellate Attorney Fees**

**(Fla. 1<sup>st</sup> DCA 12/31/15)**

Under F.S. §440.34(5), claimant's may be awarded an E/C paid appellate fee on a discretionary basis. As the opinion states: "*Ordinarily, entitlement is not established where an appellant files a notice of appeal and soon thereafter seeks dismissal, leaving little doubt about whether the appeal will be pursued. In sharp contrast, the facts here show that the Appellant received an extension of time for filing its initial brief, missed the extended deadline, and told Appellee's counsel that the brief was almost done and that he intended to file it. Even after this Court issued a show cause order, a brief never materialized; instead, a voluntary dismissal was filed. Under these circumstances, Appellee's appellate counsel was justified in undertaking typical appellate tasks that required the expenditure of attorney time.*" [Click here to view Opinion](#)

**Beck v. MMI Dining Sys./Montverde Academy/Travelers**  
**Constitutionality/Standing**

**(Fla. 1<sup>st</sup> DCA 12/31/15)**

The DCA dismissed claimant's appeal, finding no standing or preservation of argument. Additionally, they confirmed that prior decisions of the 1<sup>st</sup> DCA have affirmed the constitutionality of the 2003 law's elimination of wage loss benefits. [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.*

Treasure Coast	North Florida	Miami-Dade	Broward	Southwest Florida
772-489-2400	850-222-1200	305-423-7182	954-580-1500	239-939-2002