



HURLEY ROGNER
MILLER, COX & WARANCH, P.A.

Case Law Update

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WINTER PARK
1560 ORANGE AVENUE, SUITE 500
WINTER PARK, FL 32789
TEL: (407) 571-7400
FAX: (407) 571-7401
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) with questions or comments on any of the listed cases.

District Court of Appeal Cases

City of Homestead/PGCS v. Foust

(Fla. 1st DCA 1/26/18)

Firefighter/Law Enforcement Presumption/Pre-Employment Physical when hired as Auxiliary LEO

The DCA reversed the JCC's finding that the claimant's heart disease and hypertension were compensable under F.S. 112.18(1). The claimant had a pre-employment physical on 1/28/83 to become an auxiliary LEO with the city, which did not reveal any evidence of heart disease or hypertension. Claimant did not have a second pre-employment physical prior to being hired as a full-time LEO for the city on 10/1/84. The DCA rejected the JCC's findings in relation to effective date of the application of the presumption to local LEOs, that the city had waived or acquiesced to the validity of the pre-employment test, and lastly, that the pre-employment physical took place "at or near the time" of entering full duty status. Because Claimant did not pass a physical examination upon entering into service as a full-time LEO, he was not entitled to the presumption of occupational causation of his heart disease and hypertension under section 112.18(1). [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

954-794-6933

239-939-2002