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CASE NOTES
CASE LAW SUMMARY
January 2011

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

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Constitutionality Issues

Stahl v. Tenet Health Systems, (Fla. 3d DCA 1/19/2011)

Claimant’s accident occurs in December 2003. The Claimant (represented by Mark Zientz) files a petition with the OJCC seeking permanent total disability benefits. Claimant voluntary dismissed that petition and becomes a Plaintiff by filing an action against employer in Circuit Court seeking declaratory judgment that Fla. Stat. 440.15(3) is unconstitutional. The Plaintiff alleged that Fla. Stat. 440.15(3) eliminated his common law right to wage loss benefits. The trial court dismissed the complaint with prejudice. The Plaintiff appealed. The 3rd DCA questioned the Plaintiff’s “unconventional” procedural course, but stated even assuming the procedural course was appropriate, we conclude the Plaintiff lacks standing to challenge the constitutionality of Fla. Stat. 440.15(3) since the Plaintiff never faced any negative repercussions from the statute as the Plaintiff withdrew his claim before the JCC could take any action on it.

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Per Curiam Affirmed 1/21/2011

Villa v. Astellas/Tokio Marine Insurance, (Fla.1st DCA 1/18/2011)

On 1/18/2011, Bill Rogner argued this case before the First District Court of Appeal. W.

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Rogers Turner, Jr. tried the underlying case. The JCC held that the claimant's injuries sustained in travel status were not compensable. The claimant ventured miles away from his hotel to ride horses with friends, and was severely injured as he attempted to mount a horse. Three days after the oral argument, the DCA affirmed the JCC's denial without comment.

Summary Final Orders/Disputed Issues of Material Fact

Cook v. Palm Beach Cty. Sch. Brd/F.A.Richard., (Fla.1st DCA 1/13/2011)

The DCA affirmed the JCC's Order granting the E/C's Motion for S.F.O. The claimant's PFB sought payments of several medical bills of Dr. Rivera. The E/C responded that the treatment was authorized, but the bills had never been received. After receiving the billing information attached to the PFB and submitting them for review, the carrier sought a summary final order. The carrier alleged the JCC did not have jurisdiction to determine a dispute between a carrier and provider. The claimant argued at trial and on appeal that a genuine dispute existed as to whether Dr. Rivera was and remained authorized. The DCA found the claimant submitted no evidence to contravene the E/C position that the Dr. had been and was currently authorized. Evidence existed in the record that he was authorized, and that the bills had been paid. As the Dept. of Financial Services is the appropriate agency for provider/carrier disputes, and no evidence was produced by the claimant to support her position, the DCA affirmed the JCC's order.

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