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CASE NOTES

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CASE LAW SUMMARIES: May, 2004

DISCOVERY

Hauser v. Volusia County Department of Corrections, 872 So.2d 487 (1st DCA 2004). In a claim involving alleged exposure to toxic mold, the JCC granted the E/C's motion to compel inspection of claimant's home by a certified industrial hygienist. The 1st DCA affirmed the JCC's discretion to determine the need for an evidentiary hearing on the motion. The 1st DCA rejected the claimant's arguments regarding privacy and confidentiality, holding any such interests were outweighed by the carrier's right to determine the presence of toxic mold in the claimant's home environment.

ATTENDANT CARE

Socolow v. Flanigans Enterprises, 877 So.2d 742 (1st DCA 2004). The 1st DCA held that "Generally, attendant care considered medically necessary includes only bathing, dressing, administering medication, and assisting with sanitary functions." Housekeeping, transportation other than to a doctor, and other normal household duties that reflect quality of life are generally gratuitous and not compensable. Under controlling statute for 1988 date of accident, family members could not receive compensation for attendant care services that would normally be provided by family members gratuitously.

However, the claimant's son's fiancé would be entitled to compensation for any compensable attendant care provided prior to marriage, as she was not a family member. Therefore, she would be entitled to compensation for time spent engaged in the described attendant care duties above.

CASE NOTES

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