

**RISSMAN, BARRETT, HURT,
DONAHUE & McLAIN, P. A.
ATTORNEYS AT LAW**

STEVEN A. RISSMAN
ROBERT C. BARRETT
JENNINGS L. HURT III
ROBERT A. DONAHUE
JOHN E. McLAIN III
RICHARD S. WOMBLE
JOHN P. DALY
STACIE B. GREENE
THEODORE N. GOLDSTEIN
RAYMOND A. LOPEZ
VANCE R. DAWSON
RICHARD B. MANGAN JR.
HENRY W. JEWETT II
DANIEL M. POLLACK
ART C. YOUNG
NICOLE D. RUOCCO
DANIEL T. JAFFE
BEATRIZ E. JUSTIN
J. GREGORY GIANNUZZI
DAVID K. BEACH
F. DEAN HEWITT
EDWARD M. COPELAND IV
DAVID R. KUHN
G. WILLIAM LAZENBY IV
R. CLIFTON ACORD II
ROBERT D. BARTELS
JILL M. SPEARS
JEFFREY J. KERLEY
KARISSA L. OWENS

OF COUNSEL
ROBERT J. JACK
EXECUTIVE DIRECTOR
W. SCOTT PETERSON

201 EAST PINE STREET
15TH FLOOR
P.O. BOX 4940
ORLANDO, FLORIDA 32802-4940
TELEPHONE (407) 839-0120
TELECOPIER (407) 841-9726
ORLANDO@RISSMAN.COM

TAMPA COMMONS
ONE NORTH DALE MABRY HIGHWAY
11TH FLOOR
TAMPA, FLORIDA 33609
TELEPHONE (813) 221-3114
TELECOPIER (813) 221-3033
TAMPA@RISSMAN.COM

207 S. 2nd STREET
FT. PIERCE, FLORIDA 34950
TELEPHONE (772) 409-1480
TELECOPIER (772) 409-1481
FTPIERCE@RISSMAN.COM

WWW.RISSMAN.COM

PLEASE REPLY TO: ORLANDO

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AMY L. BAKER
SEAN M. CROCKER
CHRISTOPHER E. DENNIS
SARAH E. EGAN
JAMES E. FAVERO III
JOSHUA T. FRICK
SUSAN R. FULLER
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FLORIDA LAW WEEKLY
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WORKERS' COMPENSATION IMMUNITY

Coral v. Garrard Crane Services, et al., 36 Fla. L. Weekly D1297
(Fla. 2d DCA June 17, 2011)

The 2d District Court of Appeal reversed a trial court's order granting summary judgment in favor of multiple defendants on the basis of workers' compensation immunity.

The decedent-claimant was an employee of an employee leasing agency, First Financial Employee Leasing, Inc ("First Financial"). First Financial had a contract with Garrard Tractor Service, Inc ("Tractor") to perform repairs on cranes leased by Garrard Carpentry ("Carpentry"). First Financial secured workers' compensation insurance for their employees.

The decedent-claimant was sent to Tractor's garage to perform work on a crane leased by Carpentry that had malfunctioned. Tractor and Carpentry were both wholly owned by

Louis Garrard V. While the decedent-claimant was performing work on the crane, it tipped over and killed him. The decedent claimant's wife, as personal representative, filed a wrongful death action against, *inter alia*, Carpentry, Tractor and Garrard Crane Services, Inc. ("Crane"; another wholly owned corporation owned by Louis Garrard V).

Tractor asserted, as an affirmative defense, workers' compensation immunity and was subsequently dismissed from the lawsuit. Upon this, Carpentry and Crane amended their answers to assert, *inter alia*, workers' compensation immunity because they were interrelated companies with Tractor. Carpentry and Crane ultimately moved for summary judgment on various issues, among these workers' compensation immunity.

The trial court granted Carpentry's and Crane's summary judgment based on workers' compensation immunity because the "leasing company [] supplied employees to effectively three wholly owned companies that intermingled business". They were thus entitled to immunity on a statutory employer basis.

The 2d DCA, after criticizing the complaint filed by the plaintiff, found that it was unclear exactly what relationship Carpentry and Crane had with the decedent claimant. Specifically, the plaintiff introduced sufficient testimony from the owner of Carpentry, Crane and Tractor (Mr. Garrard) that created factual issues regarding Carpentry's and Crane's entitlement to workers' compensation immunity. This was especially so in light of Carpentry's and Crane's initial answer stating that they were separate entities from Tractor.

The 2d DCA remanded the case in order that the factual issues be resolved.

PERMANENT TOTAL DISABILITY

Washburn v. Florida's Natural Growers and Alternative Service Concepts, 36 Fla. L. Weekly D1306 (1st DCA June 20, 2011)

The claimant appealed an order of the Judge of Compensation Claims ("JCC") arguing that the incorrect legal standard was applied in regard to her PTD claim. The E/C cross-appealed arguing that the JCC applied the incorrect major contributing

cause standard and in awarding an attorney's fee to the claimant.

Both issues on appeal were affirmed by the 1st DCA without comment. Further, the cross-appeal regarding the attorney's fee was dismissed for lack of jurisdiction, as the JCC reserved jurisdiction to determine the amount of the fee.