

**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

709 SEBASTIAN BOULEVARD
SUITE B
SEBASTIAN, FLORIDA 32958
TELEPHONE (772) 228-3228
TELECOPIER (772) 228-3229
SEBASTIAN@RISSMAN.COM

WWW.RISSMAN.COM

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FLORIDA LAW WEEKLY

SEPTEMBER 30, 2011

COMPENSABLE ACCIDENTS - INJURIES ARISING OUT OF WORK PERFORMED

Century Insurance Company & Express Script, Inc. v. Leon Hamlin,
36 Fla. L. Weekly D2100 (Fla. 1st DCA September 22, 2011)

The First DCA reversed an order of the judge of compensation claims which found a purely personal mission having no relationship to work to be compensable. The First DCA held that, while the claimant was within the course and scope of employment, the claimant was on a purely personal mission having no relationship to work, and thus the accident and injuries did not "arise out of work performed."

The claimant was at work when his supervisor informed him that a tow truck was near his vehicle, repossessing his vehicle. The claimant called the financial company which held the loan on his vehicle and was told that the vehicle was being repossessed and that the claimant needed to get his personal items out of the vehicle. When the claimant went to retrieve his personal

AMY L. BAKER
AMANDA L. BRUS
STEVEN B. BURRES
DEREK J. BUSH
SEAN M. CROCKER
CHRISTOPHER E. DENNIS
SARAH E. EGAN
JAMES E. FAVERO III
JOSHUA T. FRICK
SUSAN R. FULLER
PAUL B. FULMER
JANNINE C. GALVEZ
ELISE J. GEIBEL
CHRISTOPHER A. HANSON
VICTORIA S. LUNA
LAURA F. LYTLE
ERIC F. OCHOTORENA
JEREMY T. PALMA
JEFFREY M. PATNEAUDE
WENDY L. PEPPER
MEGHAN C. REDDY
D. BLAKE REHBERG
KELLEY A. RICHARDS
RICHARD B. ROBBINS
JUAN A. RUIZ
GREG R. SCHMITZ
BRYAN R. SPYDER
LARRY D. SPENCER
MEREDITH M. STEPHENS
ELIZABETH M. STUART
F. PAUL TIPTON
NICOLETTE E. TSAMBIS
JASON R. URBANOWICZ
CHRISTINE V. ZHAROVA

belongings, the claimant was dragged, and eventually run over, by the tow truck, which began driving off with the claimant's vehicle.

The parties attended a merit hearing on the issue of compensability, with the Employer/Carrier arguing that the phrase "arising out of work performed" in Florida Statute Section 440.09 (2008) required that the risks that caused the claimant's accident and injuries be work related. The claimant argued four points in support of compensability. The points were that the accident occurred on the Employer's premises; that the injury occurred during a paid work break, that the injuries were compensable because the claimant was injured while administering to a personal comfort; and/or that the retrieval of the claimant's personal belongings constituted an emergency and were thus compensable.

The First DCA rejected all four arguments by the claimant and pointed out that the accident that lead to the claimant's injuries were purely for personal reasons and completely unrelated to work. Thus, the claimant was unable to demonstrate that he suffered an "accidental compensable injury arising out of a risk of his employment." Therefore, the First DCA reversed the JCC's finding of compensability.

SMC/wig