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FLORIDA LAW WEEKLY
Week of August 26, 2011

FIREFIGHTER PRESUMPTION OF COMPENSABILITY

LeBlanc v. City of West Palm Beach, 36 Fla. L. Weekly D1861
(Fla. 1st DCA August 23, 2011)

The claimant established all the elements for compensability of his cardiac arrhythmia, but the JCC found the E/C introduced sufficient evidence of a non-occupational cause to rebut the presumption of compensability found in Section 112.18(1). The medical evidence accepted as credible was that the cause of claimant's condition was unknown; claimant could have developed the condition notwithstanding his occupation and the condition is caused by an electrical defect in the cells of the heart.

The 1st DCA reversed holding the JCC devalued and eviscerated the legal presumption of compensability by finding the claimant's condition, which, by definition, is an electrical defect of the heart, was caused by a defect of the heart.

PREVAILING PARTY COSTS

Aguilar v. Kohl's Department Stores, Inc., 36 Fla. L. Weekly
D1863 (Fla. 1st DCA August 23, 2011)

The E/C and Claimant each prevailed on issues at the final hearing. The JCC denied costs, finding "neither party was a prevailing party." The 1st DCA found the JCC erred for two reasons and reversed and remanded. The order was inconsistent in that it awarded attorney fees to the claimant for prevailing on TPD, but found later that neither party prevailed. The 1st DCA noted the award of costs to a prevailing party was mandatory under Section 440.34(4).

Second, the Order was premature in that more specific evidence was needed as to the specific costs incurred and both their reasonableness and their relevance to all claims presented. The JCC is not limited to finding that only one party (or neither party) prevailed. A rule that prohibits a party from recovering the full measure of his costs on the claims and date of accident upon which he fully prevailed would provide a disincentive to the administrative consolidation of cases for convenience, encouraging the development of an arbitrarily burdensome system for dispute resolution, contrary to the express legislative intent of Section 440.015.