

**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

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COMPENSABLE ACCIDENTS

Caputo v. ABC Fine Wine & Spirits/Alternative Service Concepts, Inc., 37 Fla. L. Weekly D1643, (Fla. 1st DCA July 11, 2012).

On March 3, 2010, while cutting down shelving inside the employer's store, the claimant fell and hit his head on the floor. The claimant did not have any recollection of how the accident occurred. It seems he had a seizure, but it was unclear whether this occurred before or after the fall. There was no dispute as to whether the claimant was on the employer's premises and performing his job duties when he fell.

The claimant eventually filed a petition for compensability and TTD benefits. The E/C denied the claim alleging the claimant's fall resulted from a pre-existing or idiopathic condition. The court noted that the claimant did have a prior 2008 fall, which resulted in a loss of consciousness, head trauma, and a concussion.

The claimant's IME opined that, rather than a seizure or fainting spell, the claimant's head impacting the floor caused

AMY L. BAKER
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
DARIEN M. MCMILLAN
ERIC F. OCHOTORENA
JEREMY T. PALMA
JEFFREY M. PATNEAUDE
WENDY L. PEPPER
D. BLAKE REHBERG
KELLEY A. RICHARDS
JUAN A. RUIZ
BRYAN R. SNYDER
LARRY D. SPENCER
MEREDITH M. STEPHENS
ELIZABETH M. STUART
F. PAUL TIPTON
NICOLETTE E. TSAMBIS
JASON R. URBANOWICZ
CHRISTINE V. ZHAROVA

his closed head injuries. The E/C's IME also opined the claimant's injuries occurred from his head hitting the floor.

The JCC specifically rejected the E/C's defense that the claimant had a pre-existing condition, which pre-disposed him to falling. With that said, the JCC still denied compensability on the basis there was no objective medical evidence to support that the work performed by the claimant caused the fall, as neither IME could opine with certainty whether the seizure precipitated the fall or occurred as a result of the fall. In the end, the JCC found the claimant's fall was idiopathic and was not caused by his employment.

The 1st DCA held that the injury arose out of the claimant's employment because the work being performed at the time of the accident was in the course and scope of employment and because there was no evidence to support a finding that there were competing causes of the claimant's injuries. The 1st DCA pointed out that the JCC found the claimant had no pre-existing conditions which caused him to fall. As such, the claimant satisfied the major contributing cause requirement and the JCC's order denying compensability was reversed.

JEF/dbd