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**Attorney's Fees**

Neville v. J.C. Penney Corp., 39 Fla. L. Weekly D709 (Fla. 1st DCA April 2, 2014)

This was the second appeal in this case. The first involved entitlement to an attorney's fee. This appeal was over the amount of the fee. The Court reversed in part the first time finding the Claimant's attorney was entitled to a fee related to the November 2009 PFB. On remand a fee petition was filed claiming 50.8 hours were spent in securing the dental benefits, and 66 hours were spent proving entitlement. The total number of hours sought was rounded down to 116 hours. The E/C responded asserting 31.4 hours were reasonably spent in securing the dental benefits, and 10 hours were reasonably spent proving entitlement. The JCC held "upon consideration of the time claimed and the objections to certain entries outlined in the 9/6/13 Verified Response," 37.55 hours were reasonable for securing the dental care, and 22.6 hours were reasonable for proving entitlement. The JCC did not elaborate further even when asked to do so at rehearing. The JCC did review the factors

outlined in Lee Eng'g & Constr. Co. v. Fellows, 209 So. 2d 454 (Fla. 1968), and made general findings, but did not explain the basis for reducing the hours from 116 to 60.15. Since it was impossible to ascertain how the JCC arrived at the specific fee awarded, the Court reversed and remanded for further proceedings, with directions that the JCC make findings that will allow meaningful appellate review.

**Jurisdiction**

Hamm v. PMI Employee Leasing, 39 Fla. L. Weekly D709 (Fla. 1st DCA April 7, 2014)

This claim was brought by the guardian of a minor child for death benefits. The E/C accepted compensability of the employee's death, and thereafter, filed an emergency motion seeking a determination of the beneficiaries of death benefits. The JCC denied the child death benefits under 440.16, Florida Statutes, stating the child failed to prove dependency. However, when the motion was filed there was no pending PFB. Since there was no pending PFB the JCC lacked jurisdiction. Essentially the E/C was seeking an advisory opinion on whether benefits were owed to the child. Instead the E/C could have chosen not to pay the child, and forced a PFB to be filed. The Court did not rule on the merits of the motion because the JCC lacked jurisdiction. Instead the JCC's Order was quashed, and the case was remanded with directions for the JCC to dismiss the motion for lack of jurisdiction.