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Penalties and Interest

Rupo v. City of Hialeah and Sedgwick CMS, 37 Fla. L. Weekly D1627 (Fla. 1st DCA July 9, 2012).

Claimant appealed JCC's order denying penalties and interest on late indemnity payments. This claim involved a 1997 date of accident where the claimant received his indemnity checks late. Because changes to F.S. Section 440.20(6) and Section 440.20(8) are substantive, the version that applied to this case is that in effect on the date of the accident.

The First DCA held that competent, substantial evidence supported the JCC's findings of fact that the E/C established entitlement to the presumption that the indemnity checks were mailed since office standard mailing practices were followed. Brown v. Giffen Indus., Inc., 281 So.2d 897 (Fla. 1973). Because the claimant did not rebut the presumption that normal course of business practices were followed regarding mailing the indemnity checks, the

claimant's receipt of late checks per F.S. Section 440.20(6) occurred for reasons in which the E/C had no control. Therefore, penalties were not due to the claimant and the JCC's denial of penalties was affirmed. F.S. Section 440.20(6).

The First DCA reversed the JCC's denial of interest owed to the claimant since F.S. Section 440.20(8) contains no exception to interest being paid on late installments of indemnity benefits. Unlike the penalties provision, the interest statutory section does not condition itself on whether such "nonpayment results from conditions over which the employer or carrier had no control." Thus, the First DCA found imposition of interest is mandatory.