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Expert Medical Advisor

Alvaro Quiroga v. First Baptist Church at Weston, 38 Fla. L. Weekly D139 (January 16, 2013).

The claimant appealed an Order of the JCC accepting the opinion of one physician over another and denying benefits to the claimant. Specifically, the claimant appealed whether it was error for the JCC to not appoint an EMA on her own even though neither party asked for an EMA at hearing. Moreover, the claimant argued that the JCC had no jurisdiction to resolve medical disagreements unless an EMA was appointed.

The 1st DCA noted that the JCC was required to appoint an EMA when there is a disagreement in medical opinions but a party who does not timely seek the appointment of an EMA will not be heard on appeal to complain of the failure to designate an EMA.

Additionally, the Court found that the claimant's argument that the JCC does not have jurisdiction to resolve medical disputes without an EMA had no legal authority to support the

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argument. In fact, the Court noted they consistently held that it was the JCC's role to resolve disputes in medical testimony. The Court also indicated that unless a timely request was made for an EMA, it was the JCC's role to resolve medical disputes. As such, the Court affirmed the decision of the JCC.

TPD Benefits

Massey Services, Inc., v. Jinger Knox, 38 Fla. L. Weekly D140 (January 16, 2013).

The E/C appealed an Order of the JCC awarding workers' compensation benefits to the claimant. The E/C raised three issues on appeal although the 1st DCA noted only one merited discussion.

The issue discussed was whether the record supported an award of TPD benefits from April 25, 2011, through May 10, 2011. The Court noted that the medical testimony established work restrictions as of May 11, 2011. There was no medical evidence establishing that the claimant required work restrictions prior to May 11, 2011. In fact, the doctor whose opinions the JCC relied upon was never even asked whether the claimant required restrictions prior to May 11, 2011. The 1st DCA found that the JCC erred in awarding TPD benefits for the relevant time period as there was no medical evidence to establish that the claimant had work restrictions.