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COSTS

Hillsborough County School Board/Broadspire v. Kubik, 38 Fla. L. Weekly D401 (Fla. 1st DCA March 1, 2013).

The Employer/Carrier appealed the JCC's Order to the extent it awarded Claimant a one time change, under F.S. Section 440.13(2)(f) and denied the Employer/Carrier prevailing party costs, under Section 440.34(3). The decision regarding the award of a one time change, without further comment, was affirmed. However, the denial of prevailing party costs to the Employer/Carrier was reversed and remanded.

The JCC awarded the claimant TPD benefits, continued pain management, and reimbursement of some bills but denied other claims for TTD benefits, compensability of neck complaints, and authorization of other medical benefits. The Employer/Carrier made multiple requests for an award of costs for claims on which it prevailed. However, the JCC ultimately found that the claimant was the prevailing party

and granted the claimant's motion to tax costs and not the Employer/Carrier's Motion. The First DCA cited to Aguilar v. Kohl's Department Stores, Inc., 68 So.3d 356 (Fla. 1st DCA 2011) which held that the "JCC is not limited to finding that only one party (or neither party) prevailed." The JCC's error was not harmless because cost awards to prevailing parties are mandatory. Punsky v. Clay County Bd. Of County Comm'rs, 60 So.3d 1088 (Fla. 1st DCA 2011).

MEDICAL BENEFITS

Taylor v. TGI Friday's, Inc., 38 Fla. L. Weekly D443 (Fla. 1st DCA March 1, 2013)

Claimant appealed the JCC's denial of his claim for payment of medical bills related to the symptoms the claimant demonstrated when he presented to the hospital for treatment. Because the EMA testified that the compensable injury was the MCC of the collection of symptoms that led to the treatment provided to claimant, and because the JCC failed to cite clear and convincing evidence sufficient to reject the presumed correctness of the EMA's opinion, the First DCA reversed the JCC's Order.

MEDICAL BENEFITS

Beavers v. Carpenter Contractors of America and Alternative Service Concepts, 38 Fla. L. Weekly D448 (Fla. 1st DCA March 1, 2013).

Claimant appealed JCC's denial of his request that pain management with Dr. Khan be continued or reauthorized. The JCC's decision was entered before the First DCA decided Avery v. City of coral Gables, 100 So.3d 749 (Fla. 1st DCA 2012) which held that "a claimant who has reached MMI...cannot be 'in recuperation,' as a matter of law, where the treatment being provided is not curative." Therefore, the case was reversed and remanded.