

APPEAL TO: **SUPREME COURT, STATE OF FLORIDA**
500- Duval Street
Tallahassee, FL. 32399

FILED
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2009 JUN 22 A 11:16
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APPELLATE CASE NO: 1D08-3830

IN APPELLATE COURT: DISTRICT COURT OF APPEALS, FIRST
DISTRICT, STATE OF FLORIDA
301- South Martin Luther King Blvd.
Tallahassee, FL. 32399-1850

APPEAL OF CASE: Judge of Compensation Claims
501- 1st Avenue North, Suite 300
St. Petersburg, FL. 33701
OJCC CASE NO: 78-000067LLH
D/A: 08/22/78

APPELLANT/CLAIMANT: David L. Willis
P.O. Box 506
Fort McCoy, FL. 32134.
ATTORNEY : None (Pro-Se Litigant)

V.
EMPLOYER: Advanced Coatings Inc.
(No Longer in Business- nib)

CARRIER: Safeco American States Insurance Co.
P.O. Box 461
St. Louis, MO. 63166

ATTORNEY FOR EMPLOYER: William H. Rogner, Esquire
/ CARRIER: Hurley, Rogner, Miller, Cox & Waranch, PA
1560- Orange Avenue, Suite 500
Winter Park, FL. 32789

APPELLANT JURISDICTIONAL BRIEF TO SUPREME COURT

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STATEMENT OF THE CASE AND FACTS

BACKGROUND: Pages 5 to 10 needed to understand what has transpired, legal jurisdiction begins page 11. The Appellant, in an automobile accident sustained compensable injuries under Florida Workers Compensation on August 22, 1978. By this date, the Appellant had twelve years construction experience with Florida Certified Roofing Contractor License, was employed as General Manager of Florida office for California based firm, receiving salary and profit sharing bonus averaging over **\$450 per week in 1978**. Injuries to the Appellant's neck resulted in ongoing tests, extensive treatments and therapy with prescriptions, including narcotics for pain, incurring lost time though not sufficient to claim indemnity benefits. Appellate's construction career continued **for seventeen years** while dealing with the 1978 injury neck problems, earning Certified General Contractor License, increasing responsibilities and commensurate salary, earnings rose to **\$1,200 to \$2,000** per week during 1982 through 1993.

When surgery was necessary in 1994 the AA, hearing from Carrier wages, based on 1978, would be \$184 per week, Appellant obtained insurance/ series 6 securities licenses to be able to work around surgery, gained employment with Equitable Life, company having short and long term disability. There was never any incentive for AA to remain on workers compensation, particularly \$126/week.

AA's first surgery was delayed until June 1995. Since the neck problem was unchanged, the AA worked, successfully, to keep his contract with Equitable Life, and continued to work until the second surgery on July 10, 1996. Unfortunately, complications **during** second surgery augmented neck pain and symptoms to a degree, Appellant was no longer able to work, despite punishing affects from receiving **\$126 per week** (1978 cap on workers comp wages), and a May 1996 divorce from second wife reducing AA to living in travel trailer. Martin J. Jones, retained in 1995, had no real interest in the case; reason for AA's **many letter(s)**.

January 1999, condition is worsening; AA is reporting serious new symptoms of left arm pain and left hand completely numb, instead of bottom edge. February thru August 1999 the AA sent letters repeatedly to 'attorney', Mr. Jones, requesting second opinion/ IME, **not by doctors** from third surgery.

LEGAL ISSUES:

A. IN 1999- TO OBTAIN DISPUTED LUMP SUM SETTLEMENT

1. Carrier and Jones file a Joint Stipulation claiming Jones was responsible for Dr. Sirna as Treating Physician; false information to JCC. A total lie. A **year later** Mr. Jones submits illegal claim for attorney fees (**\$4,417.95**), claiming the benefits from **04/09/97 thru 03/09/98** while **actually using amounts thru April 22, 1999**. Incorrect facts and dates to mislead the JCC.

Violating F.S.440.34(2)(1978)>. Jones signed Fee Request **April 21, 1999**, the exact **same** day, April 21st date, Carrier prepared false MMI 'Notice of Change'. Carrier and Mr. Jones sent July 1999 Joint Stipulation to JCC to pay Jones \$3,500, stating fees were for benefits thru **03/04/98**. JCC signed. Jones paid **\$3,500** in **August 1999**, all unknown to the AA. **AA letters** responsible for **Sirna's IME** and **AA May 29, 1997 letter** for **Sirna as Treating Physician**. Mr Jones had **nothing** to do with Dr. Sirna, noting Jones ignored Dr. Sirna's surgery requests and Carrier stopping indemnity checks for nine weeks in 1997; which is **why** this Stipulation was **kept secret from AA, and explains why he never represented** AA properly.

2. After three years living on \$126 per week, **worsened by Carrier not paying** monies normally paid without filing a Petition (mileage, medication, etc); AA **wants to return to work**. Carrier stops indemnity for six weeks in early 1999 (repeating 1997), violating F.S.440.20(3, 5, 6, & 7a) (1978) , again stopped indemnity three weeks in April 1999 (Carrier changed Temporary Total to Permanent Total Disability effective April 1, 1999, violating F.S.440.15(1)(a) and 440.15(1)(e) (1978). Case Manager's 1999 reports support AA Carrier denying IME, Coercion used for Mediation Agreement; Carrier promise neurosurgeon in exchange- sign Mediation, believe it's honored, AA signs Lump Sum Agreement.

3. Mediation violated Rule 4.370(d), and when Carrier did not approve the neurosurgeon for the IME, AA requested Jones cancel mediation as unsupported with consideration under which it was signed; Jones advised contract law didn't apply in Workers Compensation. Documentation required under Rule 4.143, Mediation used to obtain F.S.440.20(11)(d)(3)(1994) lump sum settlement was not furnished, Jones violated Rule 4.370(c) not enforcing Mediation terms per 440.24.

4. An issue when a lump sum agreement is signed when AA is 'represented' by an attorney- is Fraud, Withholding of facts, and Misstatement of facts used to **induce** the AA to sign the Agreement. AA documented details of the Fraud, Misstatements used to obtain 'MMI statements' from physicians, who were not the Treating Physician. Dr. Weiland agreeing with Case Manager statements, 'she says is Dr. Chen's opinion', is not assigning MMI. Letter's claimed Dr. Chen signed cannot be produced. When Case Manager statements prove false, as **none** were **supported by the Medical Records** or by the physician(s) depositions. Per F.S.440.185(6)(1978), those statements should not have been considered by JCC.

5. Equally important is **proven Withholding of Facts** by both attorneys from the JCC in 1999, leading JCC to Faulty Findings; in turn leading to the subsequent Final Order currently the subject of this Appeal. The 1999 Lump Sum Settlement Order, obtained using Coercion and Fraud is **Invalid**, legally should be Set Aside.

6. Carrier **did not honor** Mediation, denied neurosurgeon until April 2002. Six months after settlement in 2000, Dr. Webb ordered Ct/Milogram, which was delayed until **agreed to** January 2001 **Mediation; still not** approved May 2001. The 1999 problems continued to worsen until no amount pain medication would help by the October 10, 2002 **fourth** surgery with Dr. Cahill. The fourth surgery corrected half the problem, bringing neck pain back to July 1996 levels. Dr. Cahill advised 2003, if he had seen AA four years earlier, he could have repairing missing neck muscles and damage from third surgery- four years later chances of success was greatly reduced. (AA submitted Dr. Cahill September 1999, Carrier denied in early 2000 along with Dr. Sutterlin, submitted June 1999, as **both doctors wanted \$1,500 to see AA**. Carrier's Fee Factor Denial, quote from AA June 2008 Trial Memorandum:

Carrier paid \$1,500 on other patient's with two year injury and one or no surgeries, while discriminating against the AA, insisting on the 'Fee Schedule' for \$400 for AA, when "This **Fee Factor Denial** by the Carrier, is a **Defacto Denial** based on their refusal to pay the **Physician's Reasonable Fee** which is **based** upon the **Patient's date of injury and prior care**"

Dr. Cahill, scheduled to perform the needed fifth surgery in August 2003, died in plane accident in July 2003. AA was assigned to Dr. Freeman who had **no** prior experience with this posterior neck surgery. After verifying the AA condition in December MRI, Dr. Freeman scheduled the fifth spine surgery for January 2004.

AA wanted qualified surgeon's opinion. Carrier refused AA's IME, returning to delay mode. Carrier turned down Dr. Asdorian offer for 1x fee schedule in 2004. Carrier was trying to force Settlement of Medical, not just deny IME. **Severe Pain** prevented AA from attempting legal research until late 2006 after Dr. Chen significantly increased pain medication to current levels. **Every two years, 1994-2008**, AA paid to keep the Certified General and Roofing Contractor licenses, taking required continuing education, an expense of \$500-600, hoping one day to be able to Return To Work.

6. Court Records, comprising 22 volumes and 3,500 pages is partly the result of years, and is partly due to the drawn out legal battle regarding this Petition. Carrier: ignored Requests to Produce, **selectively determining what records** were sent to the AA, required **two Motions to Compel to obtain Case Manager's 1999 Monthly Reports, Motions to Compel** Carrier to produce Mr. Jones payment records. Carrier deposition of their adjuster, sent AA Notice for June 4th, held it on June 6th. Mr. Jones lost AA records and his memory after April 2007 hearing.

7. The same JCC from 1999, reviewed the case again, resulting in Final Order of July 1, 2008 is only superficial, lacks CSE. **Medical records, three physicians depositions, and case manager's 1999 reports must be read and considered.**

SUMMARY OF ARGUMENT

AA despite studying over 200 cases used in the Briefs, may have interpreted a case incorrectly; however, **there are no Mistakes of Fact**. If JCC had considered the Records noted in #7, there would have been a different Final Order. The same is true for, Per Curiam Affirmed, would not be the Appellate Court's decision.

The Appellant has submitted the Notice to Invoke Discretionary Jurisdiction of the Supreme Court for two very valid reasons which are outlined below:

A. Under **part (iv) in 9.030(a)(2)(A)**, should the Supreme Court **pass** on the Appellant's Notice to Invoke Discretionary Jurisdiction regarding the Appellate Court's per curiam affirmed opinion dated May 13, 2009, **will directly conflict with** the Supreme Court's **prior rulings** on the same legal question or legal issues:

1. Florida Statutes under F.S.440.20(11)(b)(1994) required a worker to be at Maximum Medical Improvement (MMI) prior to a Lump Sum Settlement Order. The (MMI) definition from the Kirkland Court, used by JCC quotes: **“date after which further recovery from or lasting improvement to an injury or disease can no longer reasonably be anticipated, based on reasonable medical probability”**. See: <Order page 23, item #40>. AA **clearly** did not meet this definition **IF** Medical Records, physicians depositions, were considered. See:

Kirkland v. Benedict & Jordan, 120 So. 2d 169 (Fla.1960)

2. Florida Statutes under F.S.440.20(11)(b & c) (1994) require the Lump Sum Settlement to be in the **Best Interests** of AA. The violation of F.S.440.15(3)(u)3 (1978), verified by reading last paragraph- ties disability to diminution of wages or physical whichever is greater. AA Benefit by the Statute was **\$66,150**, undermines references to Best Interests on a net **\$40,208** settlement, when F.S.440.34(3)(1978) allows for attorney fees added to AA benefit awarded.

B. Under (**part i**) in 9.030(a)(2)(A), several Statutes will be **effectively be struck down as invalid**, **IF** this Appeal in the District Court of Appeals, First District, dated May 13, 2009, **remains Affirmed** To that end, the AA references in the Argument, the various Florida Statutes violated by the Carrier in their handling of this Claim, which are effectively struck down if the Appellate ruling remains affirmed. There are more than a dozen statutes which are being ignored, some like denial of IME, under F.S.440.13(1 & 2)(1978), the Carrier's violation is documented by Case Manager's 1999 monthly reports.

Florida Statutes, to be considered valid, must be enforced by the Lower Tribunal, JCC, and by the Appellate Court's.

ARGUMENT

A. For **part iv**, under 9.030(a)(2)(A), in addition to the Florida Statutes, F.S.440.20(11)(b)(1994) where the injured worker was **required** to be at Maximum Medical Improvement (**MMI**) prior to a Lump Sum Settlement Order being considered. Under the JCC's definition used for (MMI) based on the Kirkland Court, see

Kirkland v. Benedict & Jordan, 120 So. 2d 169 (Fla.1960)

In JCC Order at <Order page 23, item #40>, MMI definition the AA **clearly** did not meet- **IN** the Medical Records, physicians depositions, and Case Manager's 1999 Reports, all documents referenced by AA from the Court Record.

The errors in the JCC Findings are very easy to prove for both Dr. Chen and Dr. Weiland, as long as the Medical Records and the physician(s) depositions are used. Dr. Chen's Medical Records, supported by his deposition, show Chen was following his conservative treatment plan during all of 1999, would not have assigned MMI, for his area of expertise-Pain, without trying the - morphine pump documented in his November 1998 initial evaluation. Dr. Weiland, who clearly did not have the AA at MMI on December 4, 1998, Weiland's last visit with the Claimant, was **not** the Treating Physician, no longer seeing patient's, signed the Case Manager's form under suspicious circumstances thru 'Gabe' in March 1999.

The JCC ignored the majority of Dr. Weiland's deposition, using a single face saving statement 'he must have looked at something in the AA's Record'; JCC is **ignoring the Medical Records**. Records from **all** of the Florida Spine physicians in 1999, and **all** of Dr. Chen's 1999 Records, if reviewed and considered, there is **nothing** in the **Records** to support Dr. Weiland's change in diagnosis for MMI.

Furthermore, it is not logical and reasonable to believe a medical doctor in today's litigious world would sign 'his' MMI without seeing the AA on the same day March 12th, scheduled followup appointment from December 1998 ; nor when Dr. Weiland's testifies requiring an FCE for 'his' MMI, and Dr. Weiland's repeated testimony he's relying on Case Manager statements that Dr. Chen had placed AA at MMI and Return to Work, noting March 5 and March 22, 1999 letters the Carrier 'neglected' to send under the AA's Request to Produce in 2007.

When viewed alongside the Record where Carrier has ignored MMI / PIR / WS (work status) reports from AA physician(s) in 1999 **after** Carrier's reported 'March 12th, 1999 MMI date, indicating AA was not at MMI (testified to by Dr. Webb). Carrier's violation of Statutes in denying AA's IME during 1999 is verified in Case Manager's 1999 reports; in 2008 the Carrier ignored AA Request to Produce, requiring multiple Motions to Compel for AA to obtain.

The 'MMI' does not comply with JCC's or the Supreme Court's definition.

If the Case Manager had gone to Dr. Webb, Treating Physician, Webb would not have signed MMI form. In 1998/ 1999, office visits with authorized physicians and every Medical Test done, had **Positive Medical Findings**. Furthermore, in 1999 the AA was experiencing **New and Significant Symptoms** in pain down the left arms and **complete numbness** of the left hand instead of numbness along the bottom edge of the hand. No Treating Physician is going to assign MMI under these conditions without running all the needed tests, and without consulting other needed specialists, like a neurologist.

JCC erred in believing Dr. Webb's June 1999 appointment was a surgical consultation. Medical Records and physician testimony prove Dr. Weiland was no longer seeing patients and Dr. Webb inherited the AA case. Dr. Webb was not appropriate for a second opinion as **Webb along with Dr. Weiland** performed the third surgery on May 11, 1998, which is why the AA June 1999 request specifically requested second opinion, **not from physicians who operated last**.

Case Managers January 1999 report, for Dr. Chen's 'approving' return to work for AA, are not logical or reasonable, based on the Medical Records, nor was the Carrier able to produce one shred of evidence to support those statements, even after multiple Motions to Compel regarding this information. Doesn't exist! Fraud, Misstatements, Withholding of Facts, Coercion, all documented in Record.

A later ruling, stated Statutory Changes does not operate to relieve the JCC from ‘concise but compete Findings of Fact... on all factual issues to permit application of CSE rule, the JCC cannot ignore bodies of evidence, See:

Brown v. Griffin, 229 So. 2d 225 (Fla. 1967)

The JCC can be selective in selective of one physician over another; **however**, the JCC cannot ignore or leave out contrary testimony, without some explanation. If the majority of physicians deposition was to be left out, using only one small portion, there should be **logical and reasonable** justification in the Findings for doing so, with sufficient documentation in the JCC Findings to justify the Final Order, See:

Buro v. Dino’s Southland Meats, 354 So. 2d 874 (Fla. 1978)

Nor should the JCC have ignored evidence regarding attorney fraud. JCC may find it unpleasant to consider an issue where two attorneys are guilty of fraud, it does not justify ignoring the issue to the detriment of the injured worker/ claimant.

Carrier and Mr. Jones submitted **Fraudulent and Misleading** statements, facts and dates were wrong, to gain approval for the Carrier’s illegal payments to a worker’s attorney. JCC should have considered the evidence, or provided a logical and reasonable explanation to refute the documentation in the Court’s Findings, if the Final Order is to be considered logical and reasonable by CSE.

Nor should Carrier's **Withholding of Facts from JCC** in 1999 be ignored if Findings are to be considered proper Findings, following Competent Substantial Evidence. If disputes on MMI and AA's medical condition had been presented to JCC in 1999, JCC could have ordered a doctor's opinion. JCC had authority for an independent doctor, under F.S.440.25(3)(b)(1978), to settle medical disputes.

In 2007/ 2008, the same JCC ignored all evidence of Carrier's withholding medical disputes, IME requests, stopping indemnity, and misrepresenting AA in the Agreement; possibly neglected due to the large Court Record. Court Record has *many* acts of Fraud and Misstatements, used to **induce the AA's belief** in 1999, that AA's **only** access to a neurosurgeon/ IME was to sign the Mediation based upon Carrier's written promise to approve a neurosurgeon. AA had every reason to believe Carrier could and would delay another year.

Appellant sent letters of complaint to Division of Workers Compensation and to Department of Insurance on more than one occasion from 1995 until 2004, receiving a patent canned responses, which did nothing.

This Carrier ignored or delayed **everything** year after year after year (major tests, referrals to physicians, paying for pain medications, mileage and physical therapy, all required a Petition and over a year to collect). A **TORT** beyond normal claims handling:

- (1) Carrier ignoring surgery requests and withholding indemnity checks in 1997,
- (2) ignore Weiland's important physical therapy order after May 1998 third surgery
- (3) fraud to obtain MMI and authoring the PIR instead of a medical doctor in 1999
- (4) Carrier ignoring request(s) for IME and stopping indemnity checks in 1999
- (5) coercion using denial of treatment, with financial pressure to obtain a signature at Mediation. AA signed Mediation believing he would receive treatment.
- (6) Carrier failed to honor Mediation for promised treatment for **next three years**,
- (7) Carrier has selectively denied medical service '**legally a defacto denial based on Carrier's refusal to pay Physician's Reasonable Fee which is based on Patient's date of service and prior care**' (Carrier holds AA to a \$400 fee schedule, while paying \$1500 for claimants with prior surgery and two year injury.
- (8) After physician died who was scheduled perform fifth surgery, the AA wanted IME from another qualified doctor- Carrier selectively used the **Fee Factor Denial** for another **four years**, Carrier **turned down** an offer for **1x the fee** schedule,
- (9) Physician, the Carrier denied in 1999 due to \$1500 fee (vs. \$400) when \$1500 fee is the same amount as another qualified doctor, advised in 2003 the AA's neck condition could have been repaired in 1999, having significantly less chance of success four years later, likely now permanent. Now it's **ten years** later in 2009?
- (10) January 2009, AA left hand totally numb for five days, 3 weeks to regain use.

This **tort** the Carrier practiced 1978 till 1993, existed in 1994 thru 1999 as Carrier selectively violated Statutes against AA; deliberate, inexcusable and undeniable actions going far beyond bad faith, breach of contract or slow payments. A **TORT** where the Carrier violated statutes and used fraudulent actions deliberately to coerce AA to settle indemnity in 1999 based on false promises, damaging the AA financially (part 1999 settlement not in best interests, second is unlawful delays exceeding ten years have prevented the AA from returning to a career worth millions).

(11) unlawful claims handling damaging the AA physically, with damages for a decade of pain, medication, and mental stress which medically can only shorten a normal life span. The tort, spanning many years with multiple adjusters, having the common denominator of the Carrier and their attorney. Even if paid per 1978 Workers Compensation, AA can never recover ten years or other losses. See:

Sibley v. Adjustco, Inc., 596 So. 2d 1048 (Fla. 1992)

The Carrier's actions go far beyond delays in receiving payments or disputes on amounts owed which may typically be found in workers compensation claims.

Misstatements to physician(s) in obtain signatures, **knowingly** using a physician who's no longer seeing patients and **no longer** AA's **Treating Physician cannot be construed** as Carrier "**reasonable belief**" the AA had reached MMI.

Case Manager's false statements on return to work, authoring the fictitious PIR misrepresented as complying with AMA Guidelines, after which the Case Manager presented the false information to Dr. Chen to be copied, misleading JCC into believing two doctors independently authored the PIR according to AMA Guidelines. Misrepresenting the AA in the Settlement Agreement. Not accidental. MMI is not valid, their 14% PIR is a medical joke, misrepresented to meeting the AMA Guidelines. Carrier used Fraud, Misstatements in Fact, Withholding of Facts, and Coercion (a) induce AA to sign, (b) mislead JCC to sign; providing JCC with the authority, to overturn and Set Aside the 1999 Lump Sum order. See:

Steele v. A. D. H. Bldg. Contractors Inc, 174 So. 2d 16 (Fla. 1965)

The JCC provides no mention of the omitted evidence or reasons given for doing so; just enough to fit JCC's easier and more pleasant version for closing this case.

AA is prepared to submit a **Brief on Merits** documenting: (1) List each Statute Violation (2) List specific Court Records- doctors, doctors testimony, case manager reports and other evidence specifically supporting Statute was violated, (3) Specific location in Record where violation was brought to JCC's attention, (4) References from JCC's Final Order demonstrating JCC overlooked, ignored, or misinterpreted the information, and (5) References from Initial or Reply Brief where this was brought to attention of the Appellate Court.

If the Supreme Court does not immediately extend it's discretionary review under the Case Law for expanding Supreme Court discretionary jurisdiction to the Appellate Court's per curiam affirmed rulings under (part iv) of 9.030(a)(2)(A),
See:

Foley v. Weaver Drugs Inc. 177 So. 2d 221 (Fla. 1965)

Then the Appellant respectfully requests this honorable Court to consider hearing this Case on **Merits**:

If the Statutes are not going to be enforced by the Courts, why bother with passing the laws in the first place? If prior cases are cited with the expectation these cases will be used as guidelines for lower tribunal's decisions- How can these case cites be **selectively applied**, or worse **arbitrarily ignored** on some claims and not on others?

B. Under (part i) of 9.030(a)(2)(A), there is a significant number of Florida Statutes for Workers Compensation which the Carrier ignored and violated, and if the current per curiam affirmed opinion of the Appellate Court is allowed to stand, the Statutes are effectively ruled as invalid, raising issues which may affect past as well as future cases in Florida, including the following:

(1) JCC, **ignoring completely** the AA's **Medical Records** fails to comply with F.S.440.185(6)(1978). The JCC also fails to consider the majority of the physician's depositions. JCC used selective part of Dr. Weiland's testimony. If the entire deposition had been considered **and if** the Medical Records had been considered, JCC would not have Findings which support MMI. Dr. Chen's opinion is even easier to define and prove he didn't assign MMI. No doctor(s) assigned MMI as defined in workers compensation statutes, violating F.S.440.2011(b)(1994), ...

(2) JCC ignores Carrier denying medical treatment and most important denying AA's 1999 IME/ second opinion requests violating F.S.440.13(1), (2) and (3a)(1978), also ignored the fact was recorded in Carrier's Case Manager's Monthly August and September 1999 Monthly Reports,...

(3) JCC fails to consider Carrier's withholding AA weekly indemnity checks for nine (9) weeks in 1997 violating F.S.440.20(3 & 7a)(1978) and in 1999 withholding six (6) weeks in January/ February 1999 and three weeks in April 1999, violating F.S.440.20(3), (5), (6) and (7a)(1978),

(4) JCC **ignored** Carrier's **fraudulent** payments to Mr. Jones , JCC fails to consider factual evidence payment **was not** related to Mr. Jones actions / Petition violating F.S.440.34(2)(1978). Dates and Facts on Stipulations are Incorrect.

Dates used were false and misleading. Mr. Jones sole Petition filed in 1997 was \$134 mileage due AA, and in 1999, Jones petition was for about \$330 again for mileage etc. owed. Carrier paid \$3,500 to Mr. Jones in August 1999 ‘for’ Mr. Jones fees. Affidavit listing 5.4 hours including time to prepare the Fee Request, is not supported by **Facts** in **Record** related to Mr. Jones Petitions or actions to gain Benefits on AA behalf. Carrier’s attorney claimed the \$3,500 **was hourly** vs Guideline, having negotiated Mr. Jones \$4,417.95 to \$3,500 for Mr. Jones claimed **5.4 hours**. Jones total fees (\$3,500 in August 1999 added to \$5,048 from October 1999) violated F.S.440.34(1)(1978), F.S.440.34(2)(1978) and F.S.440.34(3)(1978) (fees added to awards, \$8,548 attorney fees for net settlement of \$40,208). The net settlement, particularly since permanent impairment benefits are included raises issue of Appellant’s Best Interests for the settlement total.

(5) JCC ignoring Coercion used on AA to sign Mediation, violations of Rule 4.370(d), of Rule 4.143, when Carrier **did not honor** the Mediation under Rule 4.370(c) . Invalidates Lump Sum Settlement per F.S.440.20(11)(d)(3) (1994)

(6) JCC ignored evidence in Case Manager’s reports **sent to the Carrier**, knowingly violated F.S.440.13(15)(e)(1994) for using a Treating Physician, and F.S.440.15(3)(a)(4)(1994) for MMI physician assigning PIR. AA believes the two Statutes apply as administrative changes not substantive changes.

(7) JCC, regardless of whether permanent impairment benefits are deducted from a settlement, **overlooked** the end of F.S.440.15(3)(u)(1978) where it states **“However, for the purpose of this paragraph, “disability” means either physical impairment or diminution of wage-earning capacity, whichever is greater”**. Not having returned to work after July 1996 is different from JCC’s Order quoting the attorney’s ‘Unemployed’ written into the 1999 Settlement Agreement, when AA’s Benefit under this Statute is **\$66,150.00!** Best Interests cannot be claimed in 1999 Agreement when comparing **\$40,208** with **\$66,150**, when F.S.440.34(3) (1978) allows attorney fees to be added to the workers benefit.

(8) Ignores Carrier changed **Temporary Total** Disability to **Permanent Total** Disability effective **April 1, 1999**, violating F.S.440.15(1)(e)1 (1978) and F.S.440.15(1)(a)(1978), if indemnity benefits aren’t discharged by F.S.440.20(10) settlement (not April 1999). AA should have received **\$252.00** per week with added payment from Worker Compensation Trust Fund, per **15(1)(e)**. AA had no knowledge in 1999.

Failing to uniformly apply workers compensation statutes is similar to allowing anarchy; allowing Carrier’s to violate or ignore Statutes for their benefit, will never be in the Injured Workers’s Best Interests. Is this how Florida’s Workers Compensation System in intended to work?

CONCLUSION

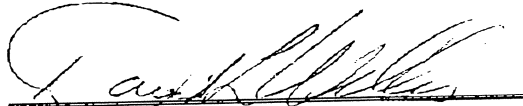
The Appellate Court's Per Curiam Affirmed has passed on a question of great importance, not only for failing to correct the **gravest miscarriage of justice in workers compensation history** to the Appellant; the Case Results will affect every worker in the state of Florida covered by compensation coverage and their employers. Carrier's are violating Florida Statutes, using improper Claims Handling Practices to force settlements for their benefit, harming already injured workers, which in the end will result in higher costs passed on to every property owner in Florida. Property owner's who ultimately pay the extraordinarily high costs of a seriously defective workers compensation system in State of Florida.

There is sufficient justification under part (iv) and (i) of 9.030(a)(2)(A) to provide for the Supreme Court to exercise it's discretionary jurisdiction to hear this Case. The question should have been certified under (v) as being of great public importance, though no opinion was provided in any form.

Therefore, the Appellant respectfully moves this honorable Supreme Court to exercise it's discretionary jurisdiction to Hear this Case under Appeal with the District Court of Appeals, First District, rendered on May 13, 2009, regarding the Judge of Compensation Claims Order dated July 1, 2008 for the AA/ Claimant's Petition to Set Aside the 1999 Lump Sum Settlement signed November 19, 1999.

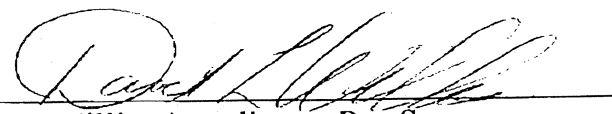
CERTIFICATE OF SERVICE

I hereby certify that a copy has been furnished to Safeco American States Insurance Company, at P.O. Box 461, St. Louis, Missouri 63166, as Employer/Carrier, to Mr. William H. Rogner, Hurley, Rogner, Miller, Cox, PA, 1560-Orange Avenue, Suite 500, Winter Park, FL. 32789, as Carrier's attorney of record, and to the Florida District Court of Appeals, First District, 301- South Martin Luther King Boulevard, Tallahassee, Florida 32399-1850 by U.S. Mail Delivery on this 19th day of June, 2009.


David L. Willis, Pro-Se Appellant
P.O. Box 506
Fort McCoy, FL. 32134-0506
Telephone: (352) 546-4439

CERTIFICATE OF FONT COMPLIANCE

I certify that the lettering in this brief is Times New Roman 14-point Font, and complies with the font requirements of Florida Rule of Appellate Procedure 9.210(a)(2).

By: 
David L. Willis, Appellant, Pro Se

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

DAVID L. WILLIS,

Appellant,

v.

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

CASE NO. 1D08-3830

ADVANCED COATINGS, INC.
and SAFECO AMERICAN
STATES INSURANCE
COMPANY,

Appellees.

_____ /

Opinion filed May 13, 2009.

An appeal from an order of the Judge of Compensation Claims.
Lauren L. Hafner, Judge.

Date of Accident: August 22, 1978.

David L. Willis, pro se, Appellant.

William H. Rogner of Hurley, Rogner, Miller, Cox & Waranch & Westcott, P.A.,
Winter Park, for Appellees.

PER CURIAM.

AFFIRMED.

DAVIS, BROWNING, and THOMAS, JJ., CONCUR.