Ogletree Deakins

Florida's Workers' Comp System Goes Back to the Future . . . at the Expense of Your Premiums

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On April 16, 2016, the Florida Supreme Court will hear another in a long line of cases brought by plaintiffs' lawyers trying to turn the clock back on Florida's Workers' Compensation Law. Before 2003, employers in Florida had some of the highest insurance costs in the entire country. Despite the high premiums, employees arguably received the least in benefits actually paid.

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The essential idea behind the workers' compensation system is that it provides employees injured on the job with fast, uncomplicated, and fair resolutions of claims, without any consideration of whether the employee was "at fault" for the injury. If an employee is injured, the employee receives compensation. The trade-off is that injured employees could not go to court and sue their employers. The workers' compensation process is their "exclusive remedy."

The current case, *Stahl v. Hialeah Hospital*, has been making its way through the state courts, questioning whether Florida's workers' compensation system has been an adequate alternative for injured workers since its major overhaul in 2003. The First District Court of Appeal held that the changes to the 2003 law did not make the statute unconstitutional.

The *Stahl* case, observing that the workers' compensation process has been in place since 1901 when Wisconsin first adopted this kind of no fault process, challenges the adequacy of the workers' compensation system. The appellant in the case, David Stahl claims that the benefits available to him and to all injured employees since October 1, 2003 when the state's workers' compensation reforms went into effect are "inadequate and therefore cannot be the exclusive remedy for on the job injuries." Stahl also claims that

Florida's workers' compensation law violates the U.S. Constitution. According to Stahl, the Florida legislature (and the post-2003 law) eliminated some injured employees' right to sue in court for their injuries. In addition, he claims that the current state law's imposition of a $10 copay for medical visits after an injured worker attains maximum medical improvement makes the Workers' Compensation Law an inadequate exclusive replacement remedy for a tort lawsuit.

The Ramifications of a Return to 2003's Laws

The National Council on Compensation Insurance reported in a press release on August 20, 2015 that "Florida's workers compensation insurance rates, overall, remain stable and commensurate with other southeastern states." However, success by the plaintiffs' lawyers in *Stahl* will likely return Florida law to its pre-2003 state, with Florida employers paying some of the highest insurance premiums in the country as well as a likely reduction in payments to injured employees because of increased attorneys' fees.

In addition, if Florida law returns to its pre-2003 state, cases will likely stay open longer and employees will be out of work longer as litigation on each claim increases. One outcome may be that job growth will be slowed due to the increased premiums and litigation costs. Moreover, these ongoing contentious litigations will potentially erode the employer-employee relationship.

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