

The Law Offices of Bolton & Helm, LLP

CASE LAW UPDATE

Costs Awardable To Prevailing Party

In Carrillo v. Claims Case Engineering, Inc., 36 Fla. L. Weekly D339d (Fla. 1st DCA, February 11, 2011), the appellate court held that a cost award against the claimant would be in error for a 1996 date of accident. The 1st DCA explained that the Workers' Compensation Act in effect on the date of the accident did not authorize such an award citing to Trent v. Charlotte Sanitation, 31 So. 3d 938 (Fla. 1st DCA 2010)(reversing an award of costs to prevailing employer and carrier in a case involving an accident that took place before October 1, 2003) and Kaloustian v. Tampa Armature Works, Inc., 5 So. 3d 753, 754 (Fla. 1st DCA 2009)(concluding judge of compensation claims erred in applying after-enacted version of section 440.34(3) to pre-2003 accident as basis for awarding costs against claimant).

Discussion: Costs may be payable to the prevailing party for accidents that occurred after October 1, 2003. Consider pleading entitlement to costs in pretrial stipulations and in responses to petitions under F.S. 440.34(3).

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