

# *The Law Offices of Bolton and Helm, LLP*

## CASE LAW UPDATE

### TWO-DISMISSAL RULE

In Mieses v. Applebee's, 34 Fla. L. Weekly D1325a (Fla. 1<sup>st</sup> DCA, June 30, 2009), claimant's counsel filed multiple petitions. Claimant's counsel then filed a single piece of paper "dismissing all pending petitions for benefits." Next, claimant's counsel filed three more petitions, two of which requested the same temporary benefits as those petitions previously dismissed. Defense argued the prior voluntary dismissal of all petitions barred an award of temporary benefits under the Two-Dismissal Rule. The JCC declined to apply the Two-Dismissal Rule, which provides that a second notice of voluntary dismissal shall operate as an adjudication of denial of any claims previously the subject of a voluntary dismissal. See Rule 60Q-6.116(2). The JCC explained that only a single notice of voluntary dismissal had been served. However, the 1<sup>st</sup> DCA reversed and held that a petition may be dismissed by the claimant without an order and by filing a notice of voluntary dismissal. The appellate court explained that no rule precludes dismissing multiple claims by filing a single piece of paper; thus, claimant's filing contained multiple notices of voluntary dismissal.

**Discussion:** Considering the practice of filing multiple petitions and dismissing same, it is likely that you may find claims barred by the Two-Dismissal Rule.

Brian Bolton, Esq.  
George Helm, Esq.  
John C.E. Sung, Esq.  
George Boring, Esq.

Bolton and Helm, LLP  
723 East Colonial Drive, Suite 200, Orlando, Florida 32803  
Cell: (321) 436-0871  
Phone: (407) 781-0345  
Fax: (407) 781-0346

[www.BoltonHelmLaw.com](http://www.BoltonHelmLaw.com)

(Please advise us if you would like to be removed from this News Group)