

A Tale of Two Injuries: A brief look at the impact of the statute of limitations in Florida's workers' compensation statute and some recent judicial decisions.

by Michael Riedhammer

Florida's workers' compensation scheme is made up of a rather complex set of laws for a system that exists simply to "assure the quick and efficient delivery" of benefits to injured workers.¹ The statute of limitations is one of the more confusing parts of the practice as multiple exceptions have arisen through the case law. Two relatively recent decisions from the First DCA illustrate how the exceptions can create very different outcomes for injured workers in seemingly similar scenarios. A workers' compensation practitioner needs to be familiar with the subtle differences in order to advise a client, on either side of

the issue, how best to proceed.

The following hypothetical is illustrative of the conflicting results when it comes to how the statute of limitations has been applied to different scenarios:

Mr. Darnay and Mr. Carton were working for Manette Corp. when they were involved in a major motor vehicle accident in 2006. The truck they were traveling in flipped over multiple times and both employees were seriously injured.

from the insurance carrier. His medical treatment led to a surgical fusion at the L4-5 level of his lumbar spine in 2007. He had rods and screws implanted to aid with the fusion. By 2008, he, too, reached maximum medical improvement and returned to work. Because he was pain free and functional, he stopped actively seeing his authorized doctor.

In 2018, ten years after returning to work, both workers' injuries began to flare up. Neither of them had received any medical care or indemnity benefits for several years.²

As expected by his doctor, Mr. Darnay's prosthetic knee was beginning to wear out and he needed it to be replaced. He sought benefits from Manette Corp.'s workers' compensation carrier and, in keeping with the holding in *Gore v. Lee County School Board*,³ he was provided with another total knee replacement and was paid for the time he missed from work. He recovered and was eventually able to return to gainful employment with minimal personal financial impact. Because the knee replacement was a prosthetic device that qualified as

form any function and were no longer a medical apparatus that he continued to use. Thus, once a year passed without Mr. Carton receiving medical care, so too did the statute of limitations. Mr. Carton was left to seek care from his private health insurance company where he had to contend with deductibles and co-payments. Without the appropriate coverage in place, he did not receive any compensation for the time he missed from work. He did eventually recover and return to work, though his personal financial situation did not fare as well.

Consequently, we have one accident, two injured workers with significant injuries and major medical treatment, but two very different results in their long term medical treatment and the associated expenses. The statute of limitations and the case law interpreting it are seemingly never fully settled. Subtle language in the statute resulted in two very different outcomes for Mr. Darnay and Mr. Carton and, indeed, for the exposure to Manette Corp. and its insurance carrier. Knowing the differences in how the law is applied will allow an

Mr. Darnay sustained an injury to his left knee as it struck various parts of the truck's interior. He received medical treatment and lost wages benefits from Manette Corp.'s workers' compensation insurance carrier. His treatment plan peaked in 2007 with a left total knee replacement. He received, essentially, a prosthetic knee. Physical therapy worked well over the following months and in 2008 Mr. Darnay was declared to have reached maximum medical improvement. He returned to work and, since he was not having any difficulty, he did not seek further medical care and treatment.

Mr. Carton injured his low back as his torso twisted and stretched with the rotating vehicle. He also received medical treatment and lost wages benefits

a medical apparatus, his continued use of it (as if he could help it!) qualified as the continued provision of medical benefits which prevented the statute of limitations from running.

Contrast this with the situation of Mr. Carton who had a much different outcome. As expected by his surgeon, the levels of his spine above and below the surgery at L4-5 were compromised over the years by the stress from the fusion and ultimately required further surgical intervention. However, well aware of the holding in *Ring Power Corporation v. Murphy*,⁴ Manette Corp.'s workers' compensation carrier denied Mr. Carton's request for further medical care. Once the fusion took hold in Mr. Carton's spine, the rods and screws that were placed in his body ceased to per-

attorney for either an injured worker or the employer and insurance carrier to correctly advise their clients on how best to proceed. ■

¹ Section 440.015, Florida Statutes.

² Section 440.19, Florida Statutes, contains the statute of limitations language.

³ 43 So.3d 846 (Fla. 1st DCA 2010).

⁴ 238 So.3d 906 (Fla. 1st DCA 2018).



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