

DISTRICT COURT OF APPEAL OF FLORIDA, FIRST DISTRICT

NFL Europa v. Charles

46 So. 3d 1194 (Fla. Dist. Ct. App. 2010) · Decided November 5, 2010

SUMMARY

The Florida First District Court of Appeal dismissed an appeal for lack of jurisdiction because the challenged workers' compensation order was neither final nor an appealable non-final order. The order only tolled the statute of limitations for a possible knee replacement claim and did not resolve the claimant's entitlement to that substantive benefit.

CASE DETAILS

COURT	District Court of Appeal of Florida, First District
WRITING FOR THE COURT	Benton; Padovano; Clark
JURISDICTION	Florida
DECIDED	November 5, 2010
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appeal from an order in a workers' compensation proceeding that tolled the statute of limitations for a potential claim for knee replacement surgery.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	NFL Europa v. Charles

TOPICS

appellate jurisdiction final judgment rule appellate procedure workers compensation civil procedure

PRACTICE AREAS

workers compensation appellate procedure civil procedure

QUESTIONS PRESENTED

1. Whether the order tolling the statute of limitations for a potential knee replacement surgery claim was a final order subject to appellate review.
2. Whether the order was an appealable nonfinal order under Florida Rule of Appellate Procedure 9.180(b)(1)(A)-(C).

HOLDINGS

1. An order that neither awards nor denies the substantive workers' compensation benefit and expressly leaves the claimant's entitlement to that benefit unresolved is not a final order.
2. The order was not an appealable nonfinal order because it was not among the nonfinal orders specifically referenced in Florida Rule of Appellate Procedure 9.180(b)(1)(A)-(C).

KEY QUOTATIONS

“A final order is one which constitutes an end to the judicial labor in the cause.” (46 So. 3d at 1194)

“Because the order on appeal is neither a final order nor an appealable non-final order specifically referenced in Rule 9.180(b)(1)(A)-(C), we do not have jurisdiction over this appeal.” (46 So. 3d at 1195)

FACTUAL BACKGROUND

The appealed order did not award or deny workers' compensation benefits. Instead, it procedurally tolled the statute of limitations for any claim concerning knee replacement surgery while leaving the claimant's entitlement to that substantive benefit unresolved.

PROCEDURAL HISTORY

The lower tribunal entered an order concluding that the statute of limitations was tolled as to any claim for knee replacement surgery that might be filed. The First District reviewed the appellants' response to an order to show cause and dismissed the appeal because the order was neither final nor an appealable nonfinal order specified by Florida Rule of Appellate Procedure 9.180(b)(1)(A)-(C).

DISPOSITION

dismissed

CASES CITED

- Augustin v. Blount, Inc., 573 So. 2d 104, 105 (Fla. 1st DCA 1991)
- Town of Palm Beach v. Watts, 426 So. 2d 1312, 1313 (Fla. 1st DCA 1982)
- Mahoney v. Sears, Roebuck & Co., 438 So. 2d 174 (Fla. 1st DCA 1983)

OPINION

NFL Europa v. Charles

46 So. 3d 1194

PER CURIAM.

PER CURIAM. Upon review of Appellants' response to this court's order to show cause, entered August 9, 2010, we conclude the order being appealed is a non-appealable, non-final order. See Fla. R.App. P. 9.180(b)(1). The order neither awards nor denies workers' compensation benefits, but rather concludes as a procedural matter, that the statute of limitations is tolled relative to any

claim for knee replacement surgery that may be, or has been, filed. This ruling, of necessity, contemplates a need for additional judicial labor to determine Claimant's entitlement to the only substantive benefit in question. Accordingly, the order, not entered to put an end to judicial labor regarding Claimant's entitlement to knee surgery, but entered in express anticipation of, and for the purpose of facilitating, ongoing or future litigation regarding such entitlement, is non-final. See *Augustin v. Blount, Inc.*, 573 So.2d 104, 105 (Fla. 1st DCA 1991) ("A final order is one which constitutes an end to the judicial labor in the cause."); see also *Town of Palm Beach v. Watts*, 426 So.2d 1312, 1313 (Fla. 1st DCA 1982) ("Compensation proceedings may, of course, generate successive ap-pealable final orders, each covering all benefits then due and not agreed to by the parties." (emphasis added)). Under circumstances similar, but significantly distinguishable from those presented here, this court has exercised jurisdiction over a final order wherein a Judge of Compensation Claims (then Deputy Commissioner) denied the substantive medical benefit at issue, and refused to extend the statute of limitations for treatment which was likely to occur after the expiration of the statute of limitations — thus, putting an end to the judicial labors necessary to resolve the claimant's entitlement to the benefit at issue in the lower tribunal. See *Mahoney v. Sears, Roebuck & Co.*, 438 So.2d 174 (Fla. 1st DCA 1983). We find no authority for the exercise of jurisdiction over an order where entitlement to the substantive benefit at issue (the sine qua non of workers' compensation litigation) is unresolved, and expressly forestalled, by the lower tribunal. Because the order on appeal is neither a final order nor an ap-pealable non-final order specifically referenced in Rule 9.180(b)(1)(A)-(C), we do not have jurisdiction over this appeal. Accordingly, the appeal is DISMISSED for lack of jurisdiction. BENTON, PADOVANO, and CLARK, JJ., concur.