

DISTRICT COURT OF APPEAL OF FLORIDA, FIRST DISTRICT

Mirta Groseclose v. Optimum Oncology-Comprehensive Cancer Center/Gallagher Bassett Services, Inc.

Groseclose · No. 1D12-3912 · Decided December 1, 2016

SUMMARY

The Florida First District Court of Appeal reconsidered the case after the Florida Supreme Court quashed its prior opinion and remanded for reconsideration in light of *Westphal v. City of St. Petersburg*. The court reversed the Judge of Compensation Claims' order and remanded for further proceedings consistent with *Westphal*.

CASE DETAILS

COURT	District Court of Appeal of Florida, First District
WRITING FOR THE COURT	Ray, J.; Bilbrey, J.; Jay, J.
JURISDICTION	Florida
DECIDED	December 1, 2016
DOCKET	1D12-3912
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from an order of the Judge of Compensation Claims. After the Supreme Court of Florida quashed the district court's prior opinion and remanded for reconsideration under <i>Westphal v. City of St. Petersburg</i> , the district court reconsidered the matter.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Mirta Groseclose v. Optimum Oncology-Comprehensive Cancer Center, Gallagher Bassett Services, Inc.

TOPICS

appellate procedure

workers compensation

PRACTICE AREAS

workers compensation

appellate procedure

QUESTIONS PRESENTED

1. Whether the order of the Judge of Compensation Claims should be reversed after reconsideration under *Westphal v. City of St. Petersburg*.
2. What disposition was required by the Supreme Court of Florida's order quashing the district court's prior opinion and remanding for reconsideration.

HOLDINGS

1. Reversal was warranted in light of *Westphal v. City of St. Petersburg*; the order of the Judge of Compensation Claims was therefore reversed.

KEY QUOTATIONS

“finding that reversal is warranted in light of that opinion, the order of the Judge of Compensation Claims is REVERSED and this case is REMANDED for proceedings consistent with that opinion.” (at 2)

FACTUAL BACKGROUND

The case arose from a workers' compensation matter involving an accident dated September 26, 2008. The opinion does not recite substantive facts beyond identifying the parties, the compensation-judge order under review, and the Supreme Court of Florida's directive to reconsider the prior appellate decision under *Westphal*.

PROCEDURAL HISTORY

The appellant appealed an order of the Judge of Compensation Claims. The district court had previously issued an opinion on October 23, 2013. On October 27, 2016, the Supreme Court of Florida quashed that opinion and remanded for reconsideration in light of *Westphal v. City of St. Petersburg*. Upon reconsideration, the district court concluded that reversal was warranted and reversed the compensation judge's order, remanding for proceedings consistent with *Westphal*.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded for proceedings consistent with *Westphal v. City of St. Petersburg*.

CASES CITED

- *Westphal v. City of St. Petersburg*, 194 So. 3d 311 (Fla. 2016)

OPINION

PER CURIAM.

IN THE DISTRICT COURT OF APPEAL FIRST DISTRICT, STATE OF FLORIDA MIRTA GROSECLOSE, NOT FINAL UNTIL TIME EXPIRES TO FILE MOTION FOR REHEARING

AND Appellant, DISPOSITION THEREOF IF FILED v. CASE NO. 1D12-3912 OPTIMUM ONCOLOGY- COMPREHENSIVE CANCER CENTER/ GALLAGHER BASSETT SERVICES, INC., Appellees. _____/ Opinion filed December 1, 2016.

An appeal from an order of the Judge of Compensation Claims. Gerardo Castiello, Judge. Date of Accident: September 26, 2008. Bram J. Gechtman, Miami, Robert J. Fiore of Robert J. Fiore, P.A., Miami, and Marjorie Gadarian Graham of Marjorie Gadarian Graham, P.A., Palm Beach Gardens, for Appellant. Eduardo E. Neret and Javier A. Finlay of the Law Offices of Eduardo E. Neret, P.A., Miami, for Appellees.

PER CURIAM. The court having received the October 27, 2016, order of the Supreme Court of Florida quashing this court's opinion of October 23, 2013, and remanding the matter for reconsideration upon application of *Westphal v. City of St. Petersburg*, 194 So. 3d 311 (Fla. 2016), and finding that reversal is warranted in light of that opinion, the order of the Judge of Compensation Claims is REVERSED and this case is REMANDED for proceedings consistent with that opinion.

RAY, BILBREY, and JAY, JJ., CONCUR. 2