

SUPREME COURT OF FLORIDA

Cynthia Richardson v. Aramark/Sedgwick CMS

193 So. 3d 880 (Fla. 2016) · No. SC14-738 · Decided April 28, 2016

SUMMARY

The Florida Supreme Court reviewed a First District Court of Appeal decision affirming a workers’ compensation attorney fee calculated under Florida’s statutory fee schedule. Following its decision in *Castellanos v. Next Door Co./Amerisure Ins. Co.*, the Court held that the issue was resolved by its determination that the fee provision was unconstitutional and quashed the First District’s decision. The case was remanded for further proceedings consistent with *Castellanos*.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Per Curiam; Labarga, C.J.; Pariente, J.; Lewis, J.; Quince, J.; Perry, J.; Canady, J.; Polston, J.
JURISDICTION	Florida
DECIDED	April 28, 2016
DOCKET	SC14-738
DISPOSITION	quashed
PROCEDURAL POSTURE	The Supreme Court of Florida reviewed the First District Court of Appeal's decision affirming a statutory workers' compensation attorney-fee award and certifying a constitutional question of great public importance.
STANDARD OF REVIEW	The court reviewed the certified constitutional issue; the opinion does not expressly state a separate standard of review.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Florida
PARTIES	Cynthia Richardson v. Aramark/Sedgwick CMS

TOPICS

- constitutional law
- procedural due process
- appellate jurisdiction
- appellate procedure
- remedies

PRACTICE AREAS

- workers' compensation
- constitutional law
- appellate procedure

QUESTIONS PRESENTED

1. Whether the conclusive workers' compensation attorney-fee schedule in section 440.34, Florida Statutes, could constitutionally require an inadequate fee award without permitting an individualized reasonableness determination.
2. Whether the First District's decision affirming Richardson's statutory attorney-fee award should be quashed in light of Castellanos.

HOLDINGS

1. The conclusive attorney-fee schedule in section 440.34, Florida Statutes, is unconstitutional as a violation of due process under the Florida and United States Constitutions because it prevents an injured worker from challenging the reasonableness of the fee award in the individual case.
2. The First District's decision affirming Richardson's statutory fee award must be quashed, and the matter must be remanded for further proceedings consistent with Castellanos.

KEY QUOTATIONS

“Because our holding in Castellanos clearly resolves this issue, we quash the First District’s decision and remand for further proceedings consistent with Castellanos.” (-2)

“the “statute prevents every injured worker from challenging the reasonableness of the fee award in his or her individual case—an issue of serious constitutional concern given the critical importance, as a key feature of the workers’ compensation statutory scheme, of a reasonable attorney’s fee for the successful claimant.”” (-1)

FACTUAL BACKGROUND

Richardson's attorney performed 90 hours of reasonably expended work in a workers' compensation case. Applying the conclusive statutory fee schedule in section 440.34, Florida Statutes, the fee award was calculated at \$19.44 per hour, for a total award of \$1,750. The statutory scheme did not permit deviation from that amount even if the resulting fee was unreasonable or inadequate.

PROCEDURAL HISTORY

The First District affirmed an attorney-fee award of \$1,750, calculated under the conclusive fee schedule in section 440.34, Florida Statutes, and certified the same constitutional question presented in Castellanos. The Supreme Court of Florida held that its decision in Castellanos resolved the issue, quashed the First District's decision, and remanded for further proceedings consistent with Castellanos.

DISPOSITION

quashed

REMAND INSTRUCTIONS

Remanded to the First District Court of Appeal for further proceedings consistent with Castellanos.

CASES CITED

- Richardson v. Aramark/Sedgewick CMS, 134 So. 3d 1133 (Fla. 1st DCA 2014)
- Castellanos v. Next Door Co./Amerisure Ins. Co., 124 So. 3d 392 (Fla. 1st DCA 2013)
- Castellanos v. Next Door Co./Amerisure Ins. Co., No. SC13-2082 (Fla. Apr. 28, 2016)
- Pfeffer v. Labor Ready Se., Inc., No. SC14-1325 (Fla. Apr. 28, 2016)
- Diaz v. Palmetto Gen. Hosp., No. SC14-1916 (Fla. Apr. 28, 2016)

OPINION

PER CURIAM.

Supreme Court of Florida _____ No. SC14-738 _____ CYNTHIA RICHARDSON, Petitioner, vs. ARAMARK/SEDGWICK CMS, Respondent. [April 28, 2016] PER CURIAM. This case is before this Court for review of the decision of the First District Court of Appeal in Richardson v. Aramark/Sedgewick CMS, 134 So. 3d 1133, 1134 (Fla. 1st DCA 2014), affirming an attorney's fee award of \$19.44 per hour for 90 hours of work reasonably expended by the claimant's attorney in a workers' compensation case.

The attorney's fee was calculated in strict compliance with the conclusive statutory fee schedule in section 440.34, Florida Statutes, which does not allow for any deviation from the statutory fee regardless of how unreasonable the ultimate fee award. Recognizing the statutory constraints, the First District was bound by its prior jurisprudence to uphold such inadequate fee awards.

For example, in Castellanos v. Next Door Co./Amerisure Ins. Co., 124 So. 3d 392, 393 (Fla. 1st DCA 2013), the First District reviewed a statutory attorney's fee of "only \$164.54 for 107.2 hours of legal work reasonably necessary to secure the claimant's workers' compensation benefits." The First District held that the statute "required this result" and that it was "bound by precedent to uphold the award, however inadequate it may be as a practical matter." *Id.* In Castellanos, the First District certified the constitutionality of the workers' compensation attorney's fee provision to this Court as a question of great public importance.

Id. at 394. We granted review and, in our opinion in Castellanos, held the statute unconstitutional as a violation of due process under both the Florida and United States Constitutions. Castellanos v. Next Door Co., No. SC13-2082, slip op. at 1-2 (Fla. Apr. 28, 2016).

As we explained, the "statute prevents every injured worker from challenging the reasonableness of the fee award in his or her individual case—an issue of serious constitutional concern given the critical importance, as a key feature of the workers' compensation statutory scheme, of a reasonable attorney's fee for the successful claimant." *Id.* at 6-7. -2- In this case, the First District affirmed the \$1,750 statutory fee award "[b]ased on" Castellanos and certified that its disposition passed upon the same question certified in Castellanos.

Richardson, 134 So. 3d at 1134. We accordingly have jurisdiction. See art. V, §§ 3(b)(3), (4), Fla. Const. Because our holding in Castellanos clearly resolves this issue, we quash the First District's decision and remand for further proceedings consistent with Castellanos. See also *Pfeffer v. Labor Ready Se., Inc.*, No. SC14-1325, slip op. at 1-2 (Fla. Apr. 28, 2016); *Diaz v. Palmetto Gen.*

Hosp., No. SC14-1916, slip op. at 1-2 (Fla. Apr. 28, 2016). It is so ordered. LABARGA, C.J., and PARIENTE, LEWIS, QUINCE, and PERRY, JJ., concur. CANADY and POLSTON, JJ., dissent. NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION, AND IF FILED, DETERMINED. Application for Review of the Decision of the District Court of Appeal - Certified Great Public Importance First District - Case No. 1D13-4138 Richard W. Ervin, III of Fox & Loquasto, P.A., Tallahassee, Florida, and Charles Holden Leo of the Law Offices of Charles H. Leo, P.A., Orlando, Florida, for Petitioner James Henry Wyman of Hinshaw & Culbertson LLP, Coral Gables, Florida, for Respondent -3-