

**SUPREME COURT OF FLORIDA
TALLAHASSEE, FLORIDA**

BRADLEY WESTPHAL,

Petitioner,

CASE NO.: SC13-1930

vs.

**Lwr. Tribunal: 1D12-3563
OJCC Case No. 10-019508SLR**

**CITY OF ST. PETERSBURG/
CITY OF ST. PETERSBURG
RISK MANAGEMENT and
STATE OF FLORIDA,**

Respondents. /

**NOTICE
OF
SUPPLEMENTAL AUTHORITY**

COMES NOW the petitioner, Bradley Westphal, by and through his undersigned co-counsel, Richard A. Sicking, and files this notice of supplemental authority and for grounds would state:

This notice is filed pursuant to Fla. R. App. P. 9.225.

This supplemental authority consists of *Sergio Ramirez v. JORDA Enterprises, Inc.*, Fla. 1st DCA Case No. 1D14-4708, opinion June 18, 2015; now pending in this Court as SC 15-1296; *James Van Camp v. Decision HR 30, Inc.*, Fla. 1st DCA Case No. 1D14-5853, opinion filed August 19, 2015,

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now pending in this Court as SC15-1539; and *Creative Space Solutions, Inc., v. Denise Pelino*, Fla. 1st DCA Case No. 1D15-1388, opinion filed Sept. 16, 2015.

This supplemental authority was discovered after the filing of the last brief because these cases were decided later, even after oral arguments.

This supplemental authority is significant to the issues raised in the present case as they are the first, second and third cases respectively in which the Florida First District Court of Appeal has certified the same question that is certified in the present case.

Respectfully submitted,

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Richard A. Sicking

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by e-mail this 23rd day of September, 2015, to: Jason Fox, Esq. (JayfoxEsq@aol.com), Law Offices of Carlson and Meissner, co-counsel for petitioner, 250 N. Belcher Rd., Suite 102, Clearwater, FL 33765; Kimberly D. Proano, Esq. (kimberly.proano@stpete.org), Office of the City Attorney, counsel for respondent, City of St. Petersburg, P.O. Box 2842, St. Petersburg, FL 33731; Allen C. Winsor, Chief Deputy Solicitor General (allen.winsor@myfloridalegal.com), and Rachel E. Nordby, Esq. (rachel.nordby@myflorida legal.com), co-counsel for the respondent State of Florida, Office of the Attorney General, The Capitol, PL-01, Tallahassee, FL 32399-1050; William H. Rogner, Esq. (wrogner@ hrmcw.com), Hurley, Rogner, Miller, Cox, Waranch & Westcott, P.A., 1560 Orange Ave., Suite 500, Winter Park, FL 32789; Richard W. Ervin, III, Esq. (richardervin @flappeal.com), Fox & Loquasto, P.A., 1201 Hays Street, Ste.100, Tallahassee, FL 32301; Andre M. Mura, Esq. (andre.mura@cclfirm.com). Center for Constitutional Litigation, P.C., 777 6th Street, N.W., Suite 520, Washington, DC 20001; Bill McCabe, Esq. (billjmccabe@earthlink.net), 1250 South Highway 17/92, Suite 210, Longwood, FL 32750; Geoffrey Bichler, Esq. (geoff@bichlerlaw.com), Bichler, Kelley, Oliver & Longo,

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Jeffrey E. Appel, Esq. (jappel@jealaw.net), Appel Harden Law Group, P.O.
Box 6097, Lakeland, FL 33807.



Richard A. Sicking

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

SERGIO RAMIREZ,

Appellant,

CASE NO. 1D14-4708

v.

JORDA ENTERPRISES, INC./
TECHNOLOGY INSURANCE
COMPANY, INC.,

Appellees.

Opinion filed June 18, 2015.

An appeal from an order of the Judge of Compensation Claims.
Sylvia Medina-Shore, Judge.

Date of Accident: July 16, 2011.

Richard A. Sicking and Mark A. Touby of Touby, Chait & Sicking, P.L., Coral
Gables, for Appellant.

Rayford H. Taylor of Casey Gilson, P.C., Atlanta, Ga., for Appellee.

OPINION ON MOTION FOR REHEARING/Written OPINION

PER CURIAM.

This cause is before us on Appellant's Motion for Rehearing/Written Opinion. We grant the motion, withdraw our former opinion of May 4, 2015, and substitute this opinion in its place.

Based on this Court's decision in Westphal v. City of St. Petersburg/City of St. Petersburg Risk Management, 122 So. 3d 440 (Fla. 1st DCA 2013) (en banc), the Judge of Compensation Claims correctly limited the award of temporary benefits to 104 weeks. On appeal in this court, Appellant failed to establish that Section 440.15(4)(e), Florida Statutes (2011), is unconstitutional as applied to him.

AFFIRMED.

LEWIS, C.J., RAY and SWANSON, JJ., CONCUR.

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

JAMES VANCAMP,
Appellant,

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

v.

CASE NO. 1D14-5853

DECISION HR 30, INC.,
FWCIGA/FLORIDA
WORKERS' COMPENSATION
GUARANTY ASSOCIATION,
and USIS,

Appellees.

Opinion filed August 19, 2015.

An appeal from an order of the Judge of Compensation Claims.
Shelley H. Punancy, Judge.

Date of Accident: July 23, 2007.

Kimberly A. Hill of Kimberly A. Hill, P.L., Fort Lauderdale, for Appellant.

Micheal A. Edwards of Peterson Bernard, West Palm Beach, for Appellees.

PER CURIAM.

Based on this Court's decision in Westphal v. City of St. Peterburg/City of St. Petersburg Risk Management, 122 So. 3d 440 (Fla. 1st DCA 2013) (en banc), the Judge of Compensation Claims correctly limited the award of temporary benefits to

104 weeks. On appeal in this Court, Appellant failed to establish that paragraph 440.15(4)(e), Florida Statutes (2007), is unconstitutional on its face or as applied to him.

AFFIRMED.

THOMAS, WETHERELL, and RAY, JJ., CONCUR.

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

CREATIVE SPACE
SOLUTIONS, INC., AND
CASTLEPOINT FLORIDA
INSURANCE COMPANY,

Appellants,

v.

DENISE PELINO,

Appellee.

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

CASE NO. 1D15-1388

Opinion filed September 16, 2015.

An appeal from an order of the Judge of Compensation Claims.
E. Douglas Spangler, Jr., Judge.

Date of Accident: May 23, 2012.

Russell H. Young of Eraclides, Gelman, Hall, Indek, Goodman & Waters, LLC,
Sarasota, and Rayford H. Taylor of Casey Gilson P.C., Atlanta, Georgia, for
Appellants.

Mark L. Zientz of the Law Offices of Mark L. Zientz, P.A., Miami, for Appellee.

PER CURIAM.

Based on Westphal v. City of St. Petersburg, 122 So. 3d 440 (Fla. 1st DCA
2013), we AFFIRM. In so doing, we certify that our disposition of the instant case

passes upon the same question we certified in Westphal. Id. at 448. See Jollie v. State, 405 So. 2d 418, 421 n.* (Fla. 1981). We do not reach the issue of reclassification of benefits, because such is premature in this case. See Quail Ridge v. Johnson, 584 So. 2d 199 (Fla. 1st DCA 1991).

LEWIS, WETHERELL, and MAKAR, JJ., CONCUR.