



# Insurance

## Case Law & Insurance Regulation Update

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**Week Ending May 17, 2013**

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### I. STATE APPELLATE DECISIONS

#### A. FLORIDA

- ***Chubb Custom Insurance Company v. U.T. Investments, LLC d/b/a Best Vacation Inn (Fla. 5<sup>th</sup> DCA)***. Commercial property insurance; fire. Trial court's entry of a net judgment in favor of insured given a zero jury verdict for the insured and the un rebutted evidence of prior payments submitted at trial was error. Order reversed and remanded with directions to vacate the final judgment and enter judgment in favor of the insurer.
- ***Neville v. JC Penney Corp., Wellington Green Mall/Chartis Insurance and Chartis (Fla. 1<sup>st</sup> DCA)***. Workers' compensation; attorney's fees. Judge of Compensation Claims (JCC) erred by denying entitlement to a fee. Claimant established that Claimant's attorney successfully prosecuted her claim. Employer/Carrier's adjuster testified that but for the motion to compel compliance with the mediation agreement filed by Claimant's counsel, the bill for services rendered, would never have been paid.
- ***Poston v. Wiggins and State Farm Mutual Insurance Company (Fla. 1<sup>st</sup> DCA)***. Automobile; certiorari; discovery; motion to quash. Petitioner's post-accident medical records irrelevant to issues where her post-accident medical condition is not at issue in case. Discovery must be relevant to the subject matter of the pending action – whether petitioner was negligent and whether the plaintiffs were injured and suffered damages as a result of this negligence.

#### B. GEORGIA

- No Georgia state appellate cases reported.

## II. FEDERAL APPELLATE DECISIONS

- **Jackson v. Peerless Insurance Company et al. (11<sup>th</sup> Cir. Ga.)**. Homeowners' insurance; misrepresentation; bad faith. Summary judgment in favor of insurers affirmed. Record established that insured made two misrepresentations in insurance application material to the insurers' decision to issue the policy. Insured bound by his signature to insurance application which affirmed that he read the application and attachments and declared that the information provided in them was true, complete and correct to the best of his knowledge and belief. The Court determined that bad faith did not exist because insurers had reasonable grounds to contest the claim.

## III. ADMINISTRATIVE LAW/AGENCY DECISIONS

### A. FLORIDA

- No Florida agency decisions reported.

### B. GEORGIA

- **Bulletin 13 EX-2 To All Licensed Insurance Companies Writing Workers' Compensation Coverage for Corporations, Limited Liability Companies, Sole Proprietors, Partners and Farm Laborers**. The Georgia State Board of Workers' Compensation revised form (WC-10) available for use in the state of Georgia, for the election or rejection of workers' compensation coverage for corporations, limited liability companies, sole proprietors, partnerships, and farm laborers **effective May 1, 2013**. Bulletin 12-EX-2 is now withdrawn. New form WC-10 may be located at <http://sbwc.georgia.gov/board-forms>.

## IV. NOTICES OF ADMINISTRATIVE RULEMAKING PROCEEDINGS

### A. FLORIDA

- **Rule 19-8.028, F.A.C. – State Board of Administration; Reimbursement Premium Formula**. The Florida Hurricane Catastrophe Fund Advisory Council announces a telephone conference call to which all persons are invited. DATE AND TIME: **May 28, 2013**, 1:00 p.m. (ET) to conclusion of meeting. PLACE: Persons wishing to participate may dial (888) 670-3525 and enter conference code 7135858151. GENERAL SUBJECT MATTER TO BE CONSIDERED: A Notice of Proposed Rule for Rule 19-8.028, F.A.C., Reimbursement Premium Formula, was published on May 1, 2013, providing the public with 21 days from that date to request a rule hearing. If a rule hearing is timely requested, the Advisory Council will meet by conference call on May 28, 2013, to review comments made by the public at the rule hearing. In addition, other general business of the Council may be addressed.

### B. GEORGIA

- **Regulation Chapter 120-2-78; Credit for Reinsurance**. The Georgia Office of the Commissioner of Insurance adopted by Order changes to Regulation Chapter 120-2-78. The changes make the Regulation consistent to the NAIC Credit for Reinsurance Model Regulation. The most significant changes to Regulation Chapter 120-2-78 are the procedures provided to certify a reinsurer and the amount of collateral a certified reinsurer will be required to post. Click [here](#) for a copy of the adopted changes, **effective June 5, 2013**.

## V. MEETING NOTICES OF INTEREST/MISCELLANEOUS

- **May 31, 2013: Florida Workers' Compensation Insurance Guaranty Association Audit Meeting**, 9:30 a.m., Tallahassee, Florida office. The Audit Committee will meet regarding general business of the Committee. The agenda will include, but not be limited to: Minutes, AGFG Audit, Conflict of Interest Policy and Charter/Checklist. A copy of the agenda may be obtained by contacting Cathy Irvin at (850) 386-9200.
- **June 05 - 07, 2013: Florida Insurance Fraud Education Committee - FIFEC 21st Annual**

**Conference**, Caribe Royale Convention Center, 8101 World Center Drive, Orlando, FL, (800) 823-8300. Contact Information: Brett Kelley, FIFEC, Phone: (305) 716-6620, [www.fifec.org](http://www.fifec.org).

- **June 6, 2013: Florida Medical Malpractice Joint Underwriting Association Meeting**, 11:30 a.m., The Doctors Company, 1000 Riverside Ave., Jacksonville, FL. There will be an organizational meeting of the Grant Committee of the Florida Medical Malpractice Joint Underwriting Association. The Committee will receive and consider issues involving the Prospective Deficiency Fund, The Alvin E. Smith Grant program, and such other business properly brought before the Committee. A copy of the agenda may be obtained by contacting the FMMJUA, 1836 Hermitage Blvd., Suite 201, Tallahassee, FL 32308.
- **June 6, 2013: CPIC Claims Committee Conference Call**, 1:30 p.m., Conference Call Number (866) 361-7525, Conference ID 5219676193#. A copy of the agenda may be obtained by contacting: Connie Bryan at (904) 208-7238 or at [www.citizensfla.com](http://www.citizensfla.com).
- **June 25, 2013: CPIC Market Accountability Advisory Committee Meeting**, 8:30 a.m. - 10:00 a.m., Chapman Conference Center, Miami Dade College, Wolfson Campus, Building 3, 245 NE Fourth Street, Miami, FL; Conference Call Number (866) 361-7525, Conference ID 7849939192#. A copy of the agenda may be obtained by contacting Connie Bryan, (904) 208-7238 or [www.citizensfla.com](http://www.citizensfla.com).
- **June 25, 2013: CPIC Consumer Services Committee Meeting**, 10:30 a.m. - 11:30 a.m., Chapman Conference Center, Miami Dade College, Wolfson Campus, Building 3, 245 NE Fourth Street, Miami, FL; Conference Call Number (866) 361-7525, Conference ID 6487811620#. A copy of the agenda may be obtained by contacting Connie Bryan, (904) 208-7238 or [www.citizensfla.com](http://www.citizensfla.com).
- **June 25, 2013: CPIC Actuarial & Underwriting Committee Meeting**, 3:30 p.m. - 6:00 p.m., Chapman Conference Center, Miami Dade College, Wolfson Campus, Building 3, 245 NE Fourth Street, Miami, FL; Conference Call Number (866) 361-7525, Conference ID 8632017402#. A copy of the agenda may be obtained by contacting Connie Bryan, (904) 208-7238 or [www.citizensfla.com](http://www.citizensfla.com).
- **Receivership of Sunrise Healthcare Plan, Inc.** The estate is now closed and the Receiver is discharged from any further responsibilities regarding Sunrise Healthcare Plan, Inc. The total amount of funds distributed to claimants over the life of the estate was \$3,158,708.67. Click [here](#) for the Order Approving Receiver's Discharge.



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