

Florida Workers’ Compensation: Its History, Evolution, and Function

First Edition

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Foreword

This topic is complex in that there are many interrelated and correlative parts to the workers' compensation structure and function. Some chapters are substantive and detailed. Others are intended as introductions of peripheral information that may enhance the reader's appreciation for the breadth of the topic and the workers' compensation community. The chapters are arranged in sections intended to provide the reader with an overview of the subject, fundamentals of operation, key legal issues involved in workers' compensation, the constituencies around which litigations revolves, available benefits, claims process, litigation itself, and resolution of claims. There is a final section focused on challenges that workers' compensation may face in the present or perhaps near future. Each chapter is significantly freestanding to ease use as a reference, although there is substantial inter-reference to other chapters and concepts. The effort is to afford some historical overview as well as present status for each of the chapter topics. The author acknowledges and thanks Hon. John J. Lazzara who strove to proofread this book. His enthusiasm and persistence were inspiring.

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Dedication

This work is dedicated to my wife Pamela Langham. I wrote this book at her persistent urging, and would never have finished without her enduring encouragement and support.

About the Author

David Langham has been engaged in the Florida workers' compensation community since 1991. He has litigated hundreds of cases, including workers' compensation final hearings, jury trials, and mediations. He has represented individuals, insurance companies, self-insured employers, governments, and some of the largest corporations in America, as regards workers' compensation, employment law, personal injury, medical malpractice, tort, and contract law. He has taught legal classes at the University of North Florida, Pensacola State College, and the University of West Florida on workers' compensation, business law, constitutional law, evidence, and legal writing. He has guest lectured at Florida State University College of Law and Barry University Dwayne O. Andreas School of Law, and delivered hundreds of lectures and panel appearances at conferences across the country. For twenty-two years, he has served as a Florida judge of compensation claims, five years presiding in Pensacola and over seventeen years as Deputy Chief Judge. David has ruled on innumerable issues, entered thousands of orders, and presided in over 750 bench trials. He has been involved with many of the premier organizations of the workers' compensation community, among them such paragons as the Workers' Compensation Institute, the National Association of Workers' Compensation Judiciary, the Workers' Compensation Section of The Florida Bar, Kids' Chance of Florida, various national organizations, and several American Inns of Court throughout Florida. He has also has been involved with medicine and the law through participation with the American Academy of Orthopedic Surgeons and the American Medical Association. He has published many articles and authored hundreds of blog posts.

Disclaimer

The views expressed in this book are the author's alone and are in no way expressions of any employer, association, organization, other person, or other entity with which the author is or has ever been affiliated. This book is about the law as it has evolved, and expresses both curiosities and criticisms. The views are offered as anecdote and history to aid and guide interpretation or future evolution, and as educational foundation for the purpose of discussion and debate. They are not intended as derogation of those who advocated or authored the conclusions and interpretations discussed. Nothing here is intended to malign or denigrate any individual(s), religion(s), race(s), ethnicity(ies), gender(s), or other group(s) in any manner. Every effort has been made throughout to reference those who seek workers' compensation benefits as "injured worker," though direct quotes and some specific contexts have preserved the term "claimant." This information regards the law, a persistently or constantly evolving standard that is both predisposed to, and expected to, change. Though this text discusses and analyzes law, it is not legal advice. No legal relationship is formed between author and reader. Any reader desiring legal advice should seek that from a licensed attorney.

Historical Perspectives

In the original Florida effort to encapsulate all that is workers' compensation law, Leo Alpert noted the following. It is intriguing that the sentiment over half a century ago seems to resonate today.

Because workmen's compensation touches the vitals – it is concerned with man's daily bread whether he be employer or employee – its days may be numbered. . .¹

In the historical review of the 1979 passage of “wage loss,” truly a watershed moment in workers' compensation, there is a poignant sentiment for this topic and those that study it:

The almost fantastic growth of this insurance product excites only a few who, no doubt, are publicly suspect for getting aroused by such an arcane subject. Yet, it seems safe, and appropriate, to suggest that Workers' Compensation is part of the rockbed of modern industrial growth.²

I have been privileged to witness several decades of discussion, dissent, advocacy, and evolution. I know a great many of the “suspect,” the curious, and the opinionated.³ They often disagreed, but were seldom disagreeable. It has been my privilege to know and collaborate with so many of them.

“Great commercial undertakings were usually begun by optimists, but were finished and made successful by pessimists. The optimists gave out when the unforeseen difficulties appeared. The pessimists took hold when they understood and measured the difficulties.”

Jay Gould, 1836-1892

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