

RECEIVED, 12/6/2016 2:17 PM, Jon S. Wheeler, First District Court of Appeal

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

FLORIDA OFFICE OF INSURANCE
REGULATION, and DAVID
ALTMAYER, Solely in His Capacity as
Commissioner of the Office,

Appellants,

DCA Case No.: 1D16-5416

v.

L.T. Case No.: 2015-CA-002159

JAMES F. FEE, JR., individually,

Appellee.

_____ /

**OFFICE OF INSURANCE REGULATION’S
MOTION TO CONSOLIDATE APPEALS
(With 1D16-5408)**

Appellants, FLORIDA OFFICE OF INSURANCE REGULATION, and DAVID ALTMAYER, solely in His Capacity as Commissioner of the Office (collectively “OIR”), respectfully moves this Court pursuant to Rule 9.300, Florida Rules of Appellate Procedure, that this appeal be consolidated with the appeal of *National Council on Compensation Insurance, Inc. v. James F. Fee, Individually*, First District Court of Appeal number 1D16-5408. In support thereof, OIR states:

1. National Council on Compensation Insurance, Inc. (“NCCI”) and OIR were co-defendants in the action in the lower tribunal, *Fee v. NCCI, etc., et al.*, Second Circuit Court Case Number 2016-CA-002159.

2. The circuit court case was tried together.

3. The Order on Non-Jury Trial and Final Judgment Providing Declaratory and Injunctive Relief (“Order/Judgment”), rendered November 23, 2016, directed relief against both NCCI and OIR.

4. That Order/Judgment was attached to both NCCI’s notice of appeal filed with this Court on November 30, 2016. OIR’s notice of appeal filed with clerk of the lower tribunal on November 28, 2016, and transmitted to this Court on December 1, 2016.

5. The issues in both NCCI’s appeal and OIR’s appeal are inextricably intertwined, particularly on the application of certain sections of the insurance Rating Law, Part I, Chapter 627, and Section 286.011, Florida Statutes (2016), the Florida “Sunshine Law”.

6. These appeals were assigned different case numbers because of the different court in which the notices of appeal were filed and the different modes of transmission of the notices to this court. OIR’s notice of appeal was filed earlier (Nov. 28, 2016) in the circuit court than NCCI’s (Nov. 30, 2016) notice of appeal. However, NCCI’s notice of appeal was assigned a lower case number (1D16-5408) than OIR’s notice of appeal (1D16-5416) because of NCCI’s filing its notice of appeal directly with this Court.

7. Docketing statements will be filed in accordance with this Court’s order on this motion to consolidate.

8. If Rule 9.300 is not the correct rule for filing a motion for consolidation of these appeals, OIR request that this motion be considered under the correct rule, such as Rule 9.360, Florida Rules of Appellate Procedure, concerning parties.

WHEREFORE, Appellants, Florida Office of Insurance Regulation and David Altmaier, solely in his capacity as Commissioner of the Office, respectfully move this Court to consolidate this appeal (1D16-5416) with the appeal of the National Council on Compensation Insurance, Inc. (1D16-1508), and be styled accordingly.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Florida Office of Insurance Regulation’s Motion to Consolidate Appeals (With 1D16-5408) has been furnished by e-mail to:

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on this December 6, 2016.—

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and David Altmaier, solely in his capacity
as Commissioner of the Office.

CERTIFICATE OF FONT SIZE

I HEREBY CERTIFY that this paper is computer generated in 14-point Times
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