

TANEKO O'NEAL,

YS.

) CASE NO. ST-12-CV-388

Defendants.

If an accident happens while the employee is employed elsewhere than in this state, which would entitle the employee or his or her dependents to compensation if it had happened in this state, the employee or his or her dependents are entitled to compensation if the contract of employment was

made in this state, or the employment was principally localized in this state. However, if an employee receives compensation or damages under the laws of any other state, the total compensation¹ for the injury may not be greater than is provided in this chapter.²

This section limits the total compensation a claimant may receive under the Florida Workers' Compensation Law ("FLWCL") if a claimant receives compensation or damages under the laws of another state. However, Plaintiff did not apply for compensation benefits under the Florida statute, and, for this reason, the Court did not consider Fla. Stat. § 440.09(1)(d) a relevant provision that needed to be addressed in its September 1, 2016, Opinion.

The Court does not read Fla. Stat. § 440.09(1)(d) to state that the total compensation an employee may receive in another jurisdiction is limited by the compensation limits in the FLWCL as PSI would suggest. Such a reading ignores the statutory definition of the word "compensation," which is defined as "the money allowance payable to an employee or to his or her dependents as provided for in this chapter."³ In addition, "the laws of another jurisdiction ordinarily bear no relation to local statutes in the sense that they may become a part thereof."⁴ Moreover, there has been no "intention manifested"⁵ by the Virgin Islands Legislature to apply the FLWCL, or a similar statute of another jurisdiction, to the

¹ "Compensation" under Fla. Stat. § 440.02 is defined as "the money allowance payable to an employee or to his or her dependents as provided for in this chapter."

² Under the FLWCL, compensation for disability that is payable to an employee is determined by Fla. Stat. § 440.15. For instance, "[i]n case of total disability adjudged to be permanent, 66⅔ or 66.67 percent of the average weekly wages shall be paid to the employee during the continuance of such total disability." Fla. Stat. § 440.15(1)(a).

³ Fla. Stat. § 440.02.

⁴ *Atwater v. Gaylord*, 63 Wyo. 492, 498, 184 P.2d 437, 437 (Wyo. 1947).

⁵ *Id.*

Virgin Islands Workers' Compensation Administration statute ("VIWCA").⁶ As the Court indicated in its September 1, 2016, Opinion, the VIWCA does not contain reciprocity provisions limiting a plaintiff employee's common law action when a defendant employer has complied with the workers' compensation act of another jurisdiction. Instead, the VIWCA states that "an injured employee may sue any person responsible for his injuries other than the employer named in a certificate of insurance issued under section 272 of this title."⁷ Because PSI was not an employer named in a certificate of insurance under 24 V.I.C. § 272 at the time Plaintiff was injured, Plaintiff is not barred from pursuing this civil action and any damages Plaintiff may be awarded are not limited by the FLWCL.

As a result, the Court finds that PSI has failed to demonstrate that this Court committed clear error in its September 1, 2016, Opinion and Order, and PSI's motion for reconsideration will be denied.

An Order consistent with this Opinion shall follow.

Dated: September 16, 2016

ATTEST: Estrella George
Acting Clerk of Court _____

by: [Signature]
Lori Boynes-Tyson
Court Clerk Supervisor 9/20/16

[Signature]
HON. MICHAEL C. DUNSTON
JUDGE OF THE SUPERIOR COURT
OF THE VIRGIN ISLANDS

⁶ 24 V.I.C. § 250, et seq.

⁷ 24 V.I.C. § 284(b).