

tion was designed either to retaliate for exercise of the right to which plaintiff was entitled under the provisions of the employee benefit plan or to interfere with the attainment of an entitled right. The evidence established that the employer enacted the reduced plan to reduce costs at a time of financial hardship. Evidence also showed that the employee who had filed the AIDS-related claim was not discharged nor harassed, and that the employer had paid a substantial amount in claims beyond the \$25,000 cap, thus supporting the conclusion that the employee was not singled out for injurious treatment. In conclusion, the court wrote, "We conclude that no statutory or contractual obligation prevented Storehouse from amending its employee welfare benefit plan to include a cap for AIDS-related claims. Accordingly, we affirm the District Court's order granting summary judgment on behalf of Storehouse."

**Workers' Compensation Ex Parte Communication  
With a Physician—*Adelman Steel Corporation v. Winter*  
610 Southern 2nd 494 Florida 1st DCA 1992**

This case involves the right of an employer carrier or its counsel to have ex parte communications with an authorized physician providing care to an injured employee. The injured employee filed a petition for protective order to prohibit the employer from communicating ex parte with any of the authorized treating physicians regarding his medical care. The court found that the ability to engage in ex parte communications with the physician depends upon whether a claim has been filed or not. The court wrote that a licensed health care practitioner who has been authorized by an employer carrier, has been accepted by the employee, and has provided medical treatment to the employee is authorized to provide medical records and reports on an employee's medical condition that relate to the injury upon request of the employer carrier's attorney or representative, and also that the health care practitioner may hold ex parte discussions with the employer carrier's attorney or representative. However, once the employee has filed a formal claim for workers' compensation benefits, then an "adversarial relationship exists" and discussions of the claimant's medical condition are permissible only upon consent of the claimant or claimant's attorney or after claimant or claimant's attorney has been provided with notice and an opportunity to be present at such discussion.

The employer/carrier argued that such a procedure inhibits the self-executing provisions of the workers' compensation law. However, the court wrote, "any undue interference with the employers or servicing agent's ability to carry out their self-executing function under the workers' compensation law is amply avoided by allowing them to request and obtain the written medical reports. Of course, the claimant and his attorney should be furnished copies of any such reports sent to petitioners."

The case raises questions about impairing the self-executing features of workers' compensation.

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