

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

ROSI VIANA,

Petitioner,

NOT FINAL UNTIL TIME EXPIRES
TO FILE REHEARING MOTION AND
DISPOSITION THEREOF IF FILED.

v.

CASE NO. 1D05-4976

JACKSON MEMORIAL HOSPITAL
and MIAMI-DADE RISK MANAGE-
MENT,

Respondents.

Opinion filed November 30, 2005.

Petition for Writ of Mandamus and/or Certiorari -- Original Jurisdiction.

Mark L. Zeintz of the Law Offices of Mark L. Zeintz, P.A., Miami, for petitioner.

No appearance for respondents.

PER CURIAM.

Workers' compensation claimant Rosi Viana has filed a petition for writ of mandamus and/or certiorari to challenge the decision of a Judge of Compensation

Claims (JCC) regarding her request for an independent medical examination (IME). The JCC denied the request as moot because the employer has agreed to provide the IME. Because the JCC has ruled, regardless of the correctness of that ruling, mandamus will not lie. Kramp v. Fagan, 568 So. 2d 479 (Fla. 1st DCA 1990). With regard to certiorari, this court's jurisdiction was not timely invoked because Viana's motion for rehearing did not postpone rendition of the April 7, 2005, order. McGee v. McGee, 487 So. 2d 412 (Fla. 4th DCA 1986). Accordingly, the petition for writ of mandamus is denied on the merits and the petition for writ of certiorari is dismissed as untimely.

PETITION FOR WRIT OF MANDAMUS DENIED; PETITION FOR WRIT OF CERTIORARI DISMISSED.

DAVIS, BROWNING and LEWIS, JJ., concur.