

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

CIRCLE-K STORES, INC./  
CONSTITUTION STATE  
SERVICES COMPANY,

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

Appellants/Cross-  
Appellees,

CASE NO. 1D16-1715

v.

EMERITA FLORES-  
ORELLANA,

Appellee/Cross-  
Appellant.

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Opinion filed August 21, 2017.

An appeal from an order of the Judge of Compensation Claims.  
Jack A. Weiss, Judge.

Date of Accident: August 21, 2009.

H. George Kagan of Miller, Kagan, Rodriguez & Silver, P.A., West Palm Beach, for  
Appellants/Cross Appellees.

Mark L. Zientz of Law Offices of Mark L. Zientz, P.A., Miami, for Appellee/Cross-  
Appellant.

PER CURIAM.

In this workers' compensation case, the Employer/Service Agent (E/SA)  
appeal an order of the Judge of Compensation Claims (JCC) awarding Claimant

E/SA-paid attorney's fees and costs based on Claimant's success in a proceeding for modification. Claimant cross-appeals the JCC's determination of the attorney fee amount and denial of a separate attorney's fee for establishing fee entitlement. We affirm the issue on appeal, as well as the denial of a separate attorney's fee challenged in the cross-appeal. However, we reverse and remand for a re-calculation of the fee amount because the JCC erred by calculating it using a discount factor based on evidence outside of the record. See § 440.34(1), Florida Statutes (2009).

AFFIRMED IN PART; REVERSED IN PART; and REMANDED.

ROWE, OSTERHAUS, and WINOKUR, JJ., CONCUR.