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## **Fla. Circuit Court judge: WC exclusive remedy provision unconstitutional**

A Miami-Dade Circuit Court judge recently ruled that the exclusive remedy provision of the 2003 Florida Workers' Compensation Act is unconstitutional (the ruling in *Florida Workers' Advocates v. State of Florida* is available [here](#)). The case is attracting a lot of attention due to its possible ramifications for employers in the state of Florida.

According to the judge, because of the workers' compensation benefits that have been repealed or reduced—especially as occurred in 2003—workers' compensation is no longer a reasonable alternative to the injured employee's ability to pursue a remedy by filing a civil action. In other words, in the judge's view, the “grand bargain” that workers' compensation was supposed to be is unfairly balanced in favor of the employer.

### **Significance and potential impact**

The exclusive remedy provisions of workers' compensation statutes protect employers from lawsuits by employees to recover damages for work-related injuries. Loss of this protection may result in increased litigation and costs for Florida employers.

The good news is that this decision does not establish any precedent outside of the court that issued the opinion. However, clients with locations in the Miami, Fla., area may face more lawsuits from employees outside of the workers' compensation arena.

### **What's next?**

The state attorney general (AG) has not yet announced whether the decision will be appealed. If it is appealed, the case will be heard by the Third District Court of Appeal in Miami, which can uphold or reverse the ruling. Any appeal from the appellate court's opinion would be heard by the Florida Supreme Court. If this recent ruling is not appealed, then the circuit court opinion has no precedential value for trial courts in the rest of the state.

Sedgwick is actively involved in efforts by the Workers' Compensation Coalition, led by the Associated Industries of Florida, to develop a broad strategy for addressing this and other challenges to workers' compensation in the state.

Should you have any questions about this case or how it may impact your claims program, please contact your Sedgwick client services representative.

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