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LMA NEWSLETTER

January 8, 2018

New Report Shows Increase in Workers' Comp Legal Fees **Lagging increase expected to put upward pressure on insurance rates**

The Florida Supreme Court's 2016 decisions on Workers' Compensation cases is also cited for a sizeable increase in legal fees reported over the past two years, according to a state report. The [Office of the Judges of Compensation Claims annual report](#) shows injured workers received in total \$186 million in overall approved legal fees in 2016-2017, a 36% increase over the prior year. It's the highest amount paid in almost a decade and a sign of things to come.

In April 2016 the state Supreme Court ruled that the legislatively-set mandatory attorney fees schedule was unconstitutional and a violation of a worker's due process rights to secure the best attorney possible, in a system that is largely self-executing when there is a claim. That ruling was the basis for a 14.5% increase in workers' comp rates in Florida for 2017, anticipating these higher attorney fees.

Florida enacted its current fee cap in 2003 to stem years of double-digit rate increases. The report shows that fees paid under that cap decreased 31%. But a growing number of exceptions were granted. In 2016-2017, about \$75 million in hourly fees were approved for workers' attorneys, which is almost a 200% increase from the \$26 million paid out in the prior year. The report notes that "clearly there is a trend suggested of increasing claimant attorneys' fees in the wake of" the 2016 ruling.

The legislature was expected last year to take up attorney fees, including a bill that would have at least limited the hourly rates that attorneys could charge, but failed to pass it. As noted in this issue's *Bill Watch*, the legislature is trying again with [HB 7009](#), which eliminates the unconstitutionally ruled fee schedule but puts a cap of \$150/hour on plaintiff (workers) attorney fees. Although workers' comp rates for 2018 have been reduced an average of 9.5%, there is concern in the industry that those decreased rates don't reflect the lagging cost increases now chronicled in this report.

In addition to the \$186 million in approved legal fees for injured workers, the report showed another \$254 million was spent by employers defending those workers' comp claims.