



# Florida Court Holds 104 week limit on TTD Unconstitutional

An Appeals Court in the case of *Westphal v. City of St. Petersburg* this morning released an extended decision finding that the 104 week limit on payment of temporary total disability benefits under Florida law was unconstitutional. The court cited as the basis for its conclusion that the statute was against “natural justice” as it denied an individual the payment for TTD after 104 weeks and before reaching maximum medical improvement and determination of permanent total disability. To find a definition of “natural justice” the court reached back to 1917 to the case of *N.Y. Cent. R. Co. v. White*, 243 U.S. 188, 202 (1917).

The decision (attached) reached the conclusion that

**Section 440.15(2)(a), Florida Statutes, is unconstitutional as applied, to the extent that it limits entitlement to temporary total disability benefits to 104 weeks, and we revive the repealed portion of the statute to allow for entitlement temporary total disability benefits in an amount not to exceed 260 weeks.**

The decision is not just an outcome based decision seeking equity on the part of one individual. The court took the additional step to apply its reasoning to the point of legislating that the number of weeks should be 260 instead of 104.

The cost of the decision if broadly applied could be significant for employers in Florida.