

Esther Zapata Ruderman

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Office Location: West Palm Beach

Esther Zapata Ruderman, a partner in the West Palm Beach office of Conroy Simberg, dedicates her practice to representing employers and carriers in all workers' compensation matters. She has extensive trial experience and has successfully litigated a variety of workers' compensation issues including fraud, permanent total disability cases and collective bargaining agreements.

Esther began her practice in Miami, Florida in the areas of personal injury, asbestos litigation and construction litigation after earning a juris doctor from the University of Florida, Levin College of Law. She also holds an undergraduate degree in Finance from the University of Florida. Born in Key West, Florida, Esther is a first-generation American, as her parents emigrated from Quito, Ecuador, and for a number of years she worked in the family business America Exterminators in Tampa.

Practice Areas:

- Workers' Compensation Defense

Admitted to Practice:

- Florida, 1989

Education:

- University of Florida, College of Law, Juris Doctorate, 1988
 - Journal of Law and Public Policy
 - Trial Team
 - Teacher, Business Law 4100, UF College of Business
- University of Florida, College of Business, Bachelors of Science in Finance, 1985

Professional Affiliations:

- Executive Association of the Palm Beaches: Member
- Robert D. McAliley American Inns of Court: Member

Publications:

- Workers' Compensation Corner, South East Florida Constructor, Spring 2003

Speaking Engagements:

- "Workers' Compensation Case Law Update," Co-Presenter, Conroy Simberg Webinar, April 2024
- "Workers' Compensation Case Law Update," Co-Presenter, Conroy Simberg Webinar, April 2023
- "Workers' Compensation Case Law Update," Co-Presenter, Conroy



Simberg Webinar, April 2022

- "Workers' Compensation Case Law Update," Co-Presenter, Conroy Simberg Webinar, April 2021
- Executives' Association of the Palm Beaches, Webinar: COVID-19 and Its Affect on Florida Workers' Compensation, March 2020
- "COVID-19 and Its Affect on Florida Workers' Compensation," Conroy Simberg Webinar, Co-presenter, March 2020
- Executives' Association of the Palm Beaches, Workers' Compensation Protocol regarding Cannabis, October 2019
- Executives' Association of the Palm Beaches, Do's and Don'ts of Workers' Compensation, September 2019
- Seacoast Bank and Central/South Palm Beach County Business Development Board Meeting, October 2016
- HFTP Florida Regional Conference, July 2016
- 9th Annual Educational Seminar (Sunshine Approach), February 2016
- PayMaster Conference, October 2015
- Florida State Payroll Conference, Palm Beach Treasure Coast Payroll Association, Inc., August 2015
- Palm Beach Treasure Coast Payroll Association, Chapter Meeting, February 2015
- Executives' Association of the Palm Beaches, January 2015
- HTFP Group, Chapter Meeting, November 2014
- Florida Bar Workers' Compensation Forum, April 2011
- Florida RIMS Conference, April 2009
- Workers' Compensation Convention, August 2006

Representative Experience:

- *Silberberg v. Palm Beach County School District*: This case involving a teacher whose leg fell asleep while sitting on a chair in the classroom, causing him to fall when he got up, sustaining injury. Esther was successful in obtaining a favorable ruling from the Judge of Compensation Claims, who found, based on the medical evidence, that the Claimant failed to prove occupational causation by competent substantial evidence. The JCC noted that there was no evidence presented that the Claimant sat or stood any differently than he would in his non-employment life, and the Claimant testified that he did not stand abruptly. The IMEs on both sides testified that the Claimant's leg going to sleep could have happened at any time, at work or not, and that it was caused by nerve compression.

The Claimant appealed and the appeal was successfully defended. The First District Court of Appeal wrote a 20-page opinion, analyzing occupational causation, including the "increased hazard" test, noting that it was merely fortuitous that the Claimant's leg fell asleep at work. Sitting in a chair at work met the "but for" test, but that was not the predominant cause, considering the medical evidence that the numbness he experienced, caused by nerve compression, could have happened after sitting on anything, even a toilet. Simply put, there was nothing about the work environment (no hazard) which caused the Claimant to fall.

- *Mark Harden v. Palm Beach County School District*: The claimant injured his left leg and the condition developed into Reflex Sympathetic Dystrophy (RSD). The School District accepted the claim as compensable, provided extensive medical care, and was paying for 12 hours aid and attendant care. At trial, the claimants sought permanent and total disability benefits and home modifications. Amongst the various defenses, Esther asserted a fraud defense pursuant to ss.440.09 and 440.105, Florida Statutes. Judge Basquill found in favor of the School District. As a result of a finding of fraud, the trial court ruled that the claimant was barred from all benefits, including those past benefits

that were previously authorized. Therefore, the School District was completely relieved of further responsibility for the claim.

- Esther also represented the Palm Beach County School Board in several mold exposure claims that stemmed from a particular school. Through her efforts, Judge Timothy Basquill and Judge Mary D'Ambrosio found in favor of the Palm Beach County School Board in the cases styled *Julio Torres v. Palm Beach County School Board* and *Segunda Fernandez v. Palm Beach County School Board*, respectively. As a result of the Judges' rulings in those cases, claimants' counsel then dismissed all of the remaining cases for mold exposure that he had filed against that school.
- In *Andreuv. Braman Management*, the claimant filed a claim for compensability of an accident that occurred on the employer's premises. Esther vigorously defended the claim arguing that the statute of limitations had run and the claim was meritless. Judge Henry Harnage agreed with her arguments and ruled in favor of the employer/carrier. Because the employer/carrier felt that the claim was filed frivolously, the employer/carrier then pursued a Motion for Sanctions against the claimant's law firm for attorneys' fees and costs. Judge Harnage, once again, agreed with Esther's arguments and granted the employer/ carrier's Motion for Sanctions. Judge Harnage ordered the claimant's law firm to reimburse the employer/carrier their fees and costs for having to defend against a frivolous claim.
- Esther has also expanded her practice by establishing workers' compensation immunity for defendants in the construction arena. In the case styled *Gordon v. Amorin*, the defense counsel (separate law firm) retained Esther to assist in establishing a horizontal immunity defense that was created by the Florida Legislature in the 2003 Amendments to Chapter 440 Florida Statutes. As this was a case of first impression, Esther worked diligently in obtaining the evidence for, and then presenting a Motion for Summary Final Judgment to the trial court. Although the trial judge denied the motion, the Fourth District Court of Appeals reversed the trial judge and granted the Motion for Summary Final Judgment in favor of the defendants. In doing so, the Fourth District Court of Appeal wrote the first opinion regarding horizontal immunity, an opinion favorable to defendants in the construction industry.
- Esther also has experience in representing employers who have entered into collective bargaining agreements pursuant to §440.211, Florida Statutes (1994), which divests the Judge of compensation claims of jurisdiction. In *Gassner v. Bechtel Construction*, Esther successfully defended against the claimant's many challenges against the employer's collective bargaining agreement. In *Gassner*, the First District Court of Appeal upheld the employer's collective bargaining agreement as valid and binding and ruled that the Judge of Compensation Claims did not have jurisdiction over cases that fall within the collective bargaining agreement.
- In the arbitration forum, Esther further used her talents in prevailing in difficult cases. In *Agriesti v. Bechtel Construction*, Esther successfully defended against the claimant's claim for compensability of a stroke which left him permanently disabled. In *Agriesti*, the arbitrator ruled that the claimant's stroke was not causally related to his job as a welder.