

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

JUDY A. SCHWARTZKOPF,

Petitioner,

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

v.

CASE NO. 1D08-0527

SEA RAY BOATS, INC. and
SPECIALTY RISK SERVICES, INC.,

Respondents.

Opinion filed May 8, 2008.

Petition for Writ of Prohibition -- Original Jurisdiction.

Donald Van Dingenen and Charles W. Smith of Van Dingenen, P.A., Winter Park, for
Petitioner.

Michael F. Wilkes of Wilkes & Hedrick, P.A., Melbourne, for Respondents.

Walter J. Havers of Office of the Judges of Compensation Claims, for Judge of
Compensation Claims Paul T. Terlizzese,

PER CURIAM.

The petition for writ of prohibition is denied on the merits.

LEWIS and HAWKES, JJ., CONCUR; BROWNING, C.J., DISSENTS WITH
WRITTEN OPINION.

BROWNING, C.J., dissenting.

I would grant the writ of prohibition. It seems to me that the motion to disqualify the Judge of Compensation Claims (JCC) is facially sufficient. The adversarial relationship that has developed between claimant's attorney and the JCC, while unfortunate, gives the claimant ample reason to fear not receiving an impartial ruling from the JCC. The majority opinion "saddles" the claimant with the antithesis of what a litigant should receive: a fair hearing free from substantial doubt concerning a JCC's motivation when deciding an issue. The claimant deserves better here, and I, accordingly, dissent.