

## Workers' Compensation Liens

In the State of Florida, injured workers are provided medical and wage loss benefits for injuries they sustain while "in the course and scope of employment." However, what happens if you are injured in an automobile collision while on the job? In most cases, the workers' compensation insurance carrier will provide medical benefits regardless of fault. You can then seek to recover damages from the at-fault party while receiving care and treatment under your employer's workers' compensation policy.

However, once you make a recovery from the at-fault party, the workers' compensation carrier will assert that it is entitled to be repaid the monies they spent on your medical care and wage loss out of your recovery from the at-fault party under [Florida Statutes 440.39](#). The reason for this is simple: if the other party had not been negligent, workers' compensation would not have had to pay anything. The way it is handled can be complicated. Most insurance companies will tell you that they are entitled to 100% repayment of the monies they spent, but that is not how the law has been interpreted.

In 1990, the Supreme Court of Florida issued a ruling explaining how this law should be applied to you. In the case of [Manfredo v. Employer's Casualty Insurance Company](#), the Supreme Court held that the lien possessed by an insurance company under F.S. 440.39 should be repaid on the basis of fairness, or equity, as opposed to an automatic 100% repayment. The Court provided a formula by which these liens should be paid. In short, the formula applies the pro-rata share of the total recovery from the at-fault party taken from the total value of the negligence case and applies that ratio to the workers' compensation lien. Here is an example:

Negligence Settlement	=	\$100,000.00
Total Value of Negligence Claim	=	\$250,000.00
<u>Manfredo</u> Ratio	=	40%
Total Workers' Compensation Lien	=	\$85,000.00
Amount to be paid to Workers' Compensation	=	<b>\$34,000.00</b> (\$85,000 x .40)

There are several other factors that can affect how this formula is applied to your particular case. If you have been injured as the result of negligence of another person while working, please contact Miles & Parrish, P.A. immediately to take advantage of our resources and experience in handling both workers' compensation and personal injury claims in assisting with these matters.