

Third District Court of Appeal

State of Florida, January Term, A.D. 2008

Opinion filed March 12, 2008.

Not final until disposition of timely filed motion for rehearing.

No. 3D07-1892

Lower Tribunal No. 06-1722

The City of Miami,
Appellant,

vs.

**Miguel Gutierrez, as Personal Representative of the Estate of
Susana Gutierrez,**
Appellee.

An Appeal from a non-final order from the Circuit Court for Miami-Dade County, Thomas S. Wilson, Jr., Judge.

Jorge L. Fernandez, City Attorney, and Warren Bittner, Assistant City Attorney, for appellant.

Mintzer, Sarowitz, Zeris, Ledva, & Meyers, LLP, and Addison J. Meyers, and Orlando Valle, for appellee.

Before COPE, GREEN, and RAMIREZ, JJ.

PER CURIAM.

The City of Miami appeals an order denying its motion for summary judgment based on worker's compensation immunity. We affirm the order because the undisputed record evidence supports the trial court's finding that the employee was engaged in a recreational activity, unrelated to the work she was hired to perform. § 440.092(1), Fla. Stat. (2003); Whitehead v. Orange County Sheriff's Dept., 909 So. 2d 344 (Fla. 1st DCA 2005); Madden v. Walt Disney World Co., 711 So. 2d 150 (Fla. 1st DCA 1998).

Affirmed.