

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS
OFFICE OF THE JUDGES OF COMPENSATION CLAIMS
GAINESVILLE DISTRICT OFFICE

Omar E. Perez Linares,
Employee/Claimant,

vs.

OJCC Case No. 13-001353 MRH
Accident date: 12/8/2012
Judge: Marjorie Renee Hill

La Mia Supermarket/Packard Claims
Administration,
Employer/Carrier/Servicing Agent.

**FINAL EVIDENTIARY ORDER DENYING VERIFIED MOTION FOR ENTITLEMENT
TO ATTORNEYS' FEES AND COSTS AND MOTION TO
ACCEPT SAME AS TIMELY FILED**

THIS CAUSE came on for consideration of the Verified Motion for Entitlement to Attorneys' Fees and Costs and Motion to Accept Same as Timely Filed, and the E/C's Verified response thereto.

On October 14, 2014, I entered an Order granting, in part, the E/C's motion to compel a Verified Petition for Attorney Fees as to entitlement only. The Order gave Claimant 30 days from the date of the Order to file the Verified Petition as to entitlement. The Order further noted that failure to timely file the Verified Petition, without good cause, shall result in the waiver of the claim for attorney fees and costs. Claimant did not file the Verified Petition. Consequently, on May 8, 2015, the E/C filed a motion to dismiss the claim for attorney fees and costs.

On May 11, 2015, Claimant, through new counsel, filed the Verified Petition, and asserted multiple transfers of responsible handling attorney (within the same law firm) as the reason for the failure to timely file the Verified Petition. Notably, based on the e-mail attachments to the E/C's verified response, on November 9, 2014, Claimant's former counsel asked E/C's counsel for an extension of time to file the Verified Petition. However, Claimant's counsel did not file the Verified Petition. By e-mail dated December 1, 2014, from E/C's counsel to Claimant's counsel, the E/C inquired about the Verified Petition, which had not been filed. Claimant's counsel responded on December 6, 2015 stating she had been ill, and advising she would file the Verified Petition the following Monday. Again, the Verified Petition was not filed. As noted, the Verified Petition was ultimately filed on May 11, 2015, 213 days after entry of the October 10, 2014 Order compelling the filing of a Verified Petition within 30 days.

When considering the foregoing, I find Claimant has not shown good cause for failure to timely file the Verified Petition for Attorney Fees addressing entitlement only. Claimant's former counsel

clearly knew the Verified Petition was overdue, but did not seek an extension of time from the Judge of Compensation Claims. Current counsel's subsequent retention of the file does not excuse former counsel's failure to timely comply with the Order requiring the filing of a Verified Petition. After considering the foregoing, and being fully advised in the premises, it is hereby,

ORDERED and ADJUDGED that the Verified Motion for Entitlement to Attorneys' Fees and Costs and Motion to Accept Same as Timely Filed is **DENIED**.

DONE and ELECTRONICALLY SERVED this 22nd day of June, 2015, in Chambers, in Alachua County, Florida.



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