

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS
OFFICE OF THE JUDGE OF COMPENSATION CLAIMS
MIAMI-DADE COUNTY DISTRICT**

EMPLOYEE:

Maria Iglesias
2975 NE 190th Street
Apartment 105
Aventura, FL 33180

EMPLOYER:

Michaels Stores
8000 Bent Branch Drive
Irving, TX 75063

CARRIER:

Gallagher Bassett Services
P.O. Box 459004
Fort Lauderdale, FL 33345

CLAIMANT'S ATTORNEY:

Richard E. Zaldivar, Esquire
2600 SW 3rd Ave., Ste. 300
Miami, FL 33129

E/C ATTORNEY:

Andrew R. Borah, Esquire
1280 SW 36th Ave., Ste. 100
Pompano Beach, FL 33069

OJCC NO.: 08-026857SMS

D/A: 9/12/08

JCC: Sylvia Medina-Shore

**EVIDENTIARY HEARING ORDER GRANTING EMPLOYER/CARRIER'S MOTION
TO TAX COSTS**

THIS CAUSE came before the undersigned Judge of Compensation Claims for an evidentiary hearing on 11/19/10 regarding E/C's Motion to Tax Costs filed 10/13/10.

Documentary Exhibits:

E/C-

1. Claimant's Motion to Tax Costs filed 10/13/10 with attachments.

Claimant-

1. Claimant's Response to Claimant's Motion to Tax Costs filed 11/19/10.

Findings of Fact and Conclusions of Law:

1. A Final Hearing was held on the instant case on 4/28/10.
2. On 5/7/10, a compensation order was entered denying the claims for provision of treatment of claimant's cervical strain, authorization and provision of cervical MRI per Fast

Care, and authorization and provision of physical therapy per Fast Care. Penalties, interest, costs, and attorney's fees were also denied.

3. The claimant appealed the 5/7/10 compensation order. On 10/6/10, the First District Court of Appeals dismissed the appeal. Accordingly, E/C became the prevailing party.

4. Pursuant to Florida Statute 440.34(3) and the attached case of *F.A. Richard and Associates and Palm Beach County School Board v. Fernandez*, I find that Employer/Carrier is entitled to reimbursement of costs as the prevailing party.

5. The Employer/Carrier's costs are \$1,780.90. An Affidavit of the costs was attached to E/C's Motion for Costs showing costs as follows:

Total Deposition Fees: \$1,402.34

Court Reporter fee for Claimant \$782.25

Deposition fee for Dr. Korn \$200.00

Court Reporter fee for Dr. Korn \$420.09

Total Deposition Transcript Fee: \$178.56

Deposition transcript fee for Adjuster \$81.31

Deposition transcript for Dr. Burak \$97.25

Total Conference fees: \$200.00

Conference fee for Dr. Korn \$200.00

6. While the claimant filed her response to the motion to tax cost untimely, the undersigned finds good cause for same. Specifically, claimant's counsel explained a clerical error occurred in that he drafted the response timely however it was not filed as instructed.

7. After reviewing claimant's response and the delineated costs, I find that \$1,580.90 are taxable and reasonable costs expended pursuant to the Statewide Guidelines of

Uniform Taxation. Specifically, I find that the \$200.00 conference fee is not a taxable cost. The remaining costs are clearly delineated and itemized in the adjuster's affidavit. See, *Hillborough County Sheriff's Office v. Hilsman*, 23 So.3d. 743 (Fla. 1st DCA 2009). Claimant did not present any evidence that said itemization included non-taxable costs or was incorrect in any fashion. Furthermore, any questions or issues the claimant has with the costs itemization of the carrier could not have been addressed by E/C as claimant filed her objections on 11/19/10, the day of the evidentiary hearing.

WHEREFORE, IT IS ORDERED:

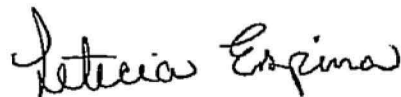
1. The claimant shall reimburse the insurance carrier \$1,580.90 in taxable costs.



Sylvia Medina-Shore
Judge of Compensation Claims

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the instant evidentiary hearing order was mailed to the parties, via U. S. Mail, at the above listed addresses and e-mailed to the attorneys of record at: Richard E. Zaldivar, Esquire, zaldivarpa@gmail.com and Andrew Borah, Esquire, zzevallos@hrmcw.com this 22nd day of November of 2010.



Secretary to JCC