

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

EMPLOYEE:

Alberto Rodriguez
2728 SW 131 Court
Miami, FL 33175

EMPLOYER:

FrankCrum
1005 Missouri Ave
Clearwater, FL 33756

CARRIER:

Broadspire, a Crawford Company Tampa
P.O. Box 30539
Tampa, FL 33630

ATTORNEY FOR EMPLOYEE:

Albert Marroquin, Esquire
Law Office of Richard Zaldivar
2600 SW 3rd Avenue
Suite 300
Miami, FL 33129

ATTORNEY FOR E/C:

EMPLOYER/CARRIER:
Andrew R. Borah, Esquire
Hurley, Rogner, Miller, Cox,
Waranch & Westcott, P.A.
1280 SW 36 Ave., Suite 100
Pompano Beach, FL 33069

OJCC CASE NO.: 06-020059SMS

D/A: 12/28/2005

JCC: Sylvia Medina-Shore

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

THIS CAUSE came before the undersigned Judge of Compensation Claims for a final evidentiary hearing on 1/20/12 regarding E/C's Motion to Tax Costs filed 12/16/11.

Documentary Exhibits:

E/C-

1. Motion to Tax Costs filed 12/16/11.
2. PFB filed 6/23/11.
3. Response to PFB filed 6/24/11.
4. Final Compensation Order entered 12/12/11.

Claimant-

1. Claimant's Response to Verified Petition filed 1/18/12.

Findings of Fact and Conclusions of Law:

1. On 6/23/11, claimant filed a Petition for Benefits (PFB) in the above-captioned claim on seeking TTD/TPD, correction of AWW, alternate orthopedist and penalties, interest costs, and attorney's fees (PICA).
2. On 6/24/11, E/C filed their response to the 6/23/11 PFB denying TTD/TPD, correction of AWW and PICA as due or owing. E/C authorized and scheduled an appointment for the claimant with an alternate orthopedist.
3. The unresolved claims in the 6/23/11 PFB were adjudicated at the final hearing. On 12/12/11, Judge Rosen entered a final compensation order denying all the claims.
4. E/C now seek reimbursement of costs as the prevailing party per Florida Statute 440.34(3) and Palm Beach County School District v. Ferrer, 990 So.2d 13 (Fla. 1st DCA 2008).
5. Claimant denies that E/C were the prevailing party as it relates to the 6/24/11 PFB as claimant was successful in having E/C authorize an "alternate orthopedist". I reject claimant's argument as not based on the law or reason. While claimant sought and E/C timely granted the alternate orthopedist, same claim was not litigated at the final hearing. Accordingly, I find that claimant was not the prevailing party as to the "alternate orthopedist" claim.
6. Employer/Carrier's costs are \$677.50. The adjuster, Ruby Arias testified via phone at the final evidentiary hearing. She verified the amount and the purpose of each cost. I accept the testimony of Ms. Arias. I specifically find that the costs of claimant's depositions are reasonable and related to the then pending TTD/TPD and AWW issues. The Statewide Uniform Guidelines for Taxation of Costs in Civil Actions allows for reimbursement of costs relating to all depositions.

7. Lastly, I find that all costs sought were necessary in the defense of the claims adjudicated and denied via the 12/12/11 compensation order.

WHEREFORE, IT IS ORDERED:

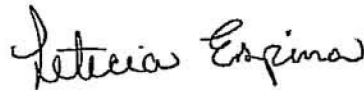
1. E/C's Motion to Tax Costs is granted.
2. The claimant shall reimburse E/C costs of \$677.50.



Sylvia Medina-Shore
Judge of Compensation Claims

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the instant final evidentiary hearing order on E/C's Motion to Tax Costs was mailed, via U.S. mail, to the parties and e-mailed to the attorneys of record this 26th day of January of 2012.



Secretary to JCC