

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

**EMPLOYEE:**

Midaelia Campos  
1345 West 28th Street, Apt. 4  
Hialeah, FL 33010

**ATTORNEY FOR EMPLOYEE:**

Unrepresented

**EMPLOYER:**

Southeast Personnel Leasing, Inc.  
2739 U.S. Highway 19 N.  
Holiday, FL 34691

**ATTORNEY FOR**

**EMPLOYER/CARRIER/SERVICING  
AGENT:**

Anthony M Amelio, Esquire  
Hurley, Rogner, Miller, Cox, Waranch  
& Westcott, P.A.  
603 North Indian River Drive, Suite  
102  
Fort Pierce, FL 34950

**CARRIER/SERVICING AGENT:**

Lion Insurance Company Serviced  
by:  
Packard Claims Administration, Inc.  
P.O. Box 1549  
Tarpon Springs, FL 34688

**OJCC NO.:** 07-016792HHH

**D/A:** 5/10/2007

**JUDGE:** HENRY H. HARNAGE

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**FINAL MERITS ORDER**

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**THIS MATTER** came before me on July 3, 2008 at a duly-noticed evidentiary hearing on the employer/carrier's Motion for Determination of Violation of §440.105(4)(b)(1), (2) and (3), and Motion for Termination of Benefits pursuant to §440.09(4). At the hearing's conclusion I ruled on the record, granting the motions and dismissing the four outstanding Petitions for Benefits filed June 18, 2007, June 28, 2007, September 21, 2007, and

October 1, 2007. This Final Merits Order follows in substantial conformance with my oral ruling.

### EVIDENCE AND WITNESS

The following evidence was offered and accepted into evidence:

- A. Deposition of the claimant, Ms. Midaelia Campos, taken on November 2, 2007, as employer/carrier's Exhibit A;
- B. Deposition of Records Custodian of State Farm Insurance taken on May 22, 2008, as employer/carrier's Exhibit B;
- C. Medical report from PHC Hospital dated May 15, 2007 [three pages], a composite exhibit and as employer/carrier's Exhibit C; and
- D. May 20, 2008 deposition of Dr. Christopher Brown, as employer/carrier's Exhibit D.

The claimant offered no documentary evidence into evidence.

The only witness to testify before me was the claimant, Ms. Campos.

### FINDINGS

Based on the testimony and evidence presented, I made the following determinations:

1. There is proper jurisdiction over the parties and the subject matter.
2. The parties were properly notified of the evidentiary hearing.
3. On May 10, 2007, the claimant was employed by Southeast Personnel Leasing, Inc., insured by Lion Insurance Company Serviced by: Packard Claims Administration, Inc. These parties are referred to as "E/C".

4. The claimant's industrial accident was a slip and fall injury for which the claimant, by an initial June 18, 2007 Petition for Benefits, alleged a left knee and low back injury with radiation down the left leg with numbness in the left leg. The employer/carrier accepted the claim as compensable and provided medical care and indemnity benefits. Treatment was authorized through a primary care facility and then ultimately through Dr. Christopher Brown.

5. In connection with her workers' compensation case, the claimant was seen at Physician's Health Center Occupational Health Specialists. On May 15, 2007, according to the note admitted into evidence, the claimant denied any prior history of lumbar injury.

6. In addition to the above, the claimant was seen by Dr. Christopher Brown for an initial visit on May 25, 2007. According to Dr. Brown's deposition testimony (pages 6 and 7), the claimant once again denied any low back pains or problems prior to the industrial accident. In fact, Dr. Brown noted that the claimant failed to mention any prior history on the intake sheet and therefore he specifically asked her about any prior problems; this was denied by the claimant. The claimant failed to reveal to Dr. Brown the fact that she had been involved in a motor vehicle accident in November of 2005 resulting in medical care for the cervical and lumbar spine.

7. Moreover, the claimant's deposition was taken by counsel for the employer/carrier on November 2, 2007, the claimant being represented

at the time. The following testimony was elicited by the employer/carrier:

Q: Have you ever injured your lower back around your waistline prior to this accident?

A: No.

Q: Have you ever treated for low back complaints of any kind prior to this accident?

A: No.

Q: Have you ever had any work-related accidents or injuries prior to this accident?

A: No.

Q: Have you ever had any motor vehicle accidents of any kind?

A: No.

Q: Either as a driver or as a passenger?

A: No.

Q: Have you ever had any prior slip and falls requiring any treatment of any kind?

A: No.

Q: Have you ever made claims against any type of insurance companies for any personal injuries prior to this accident?

A: No.

(Deposition of claimant, page 24)

8. In reviewing employer/carrier Exhibit B, it is clear that the claimant was involved in a motor vehicle accident in Miami-Dade County on November 29, 2005. The accident resulted in medical care to the claimant's neck, right shoulder and low back with Dr. Hugo Goldstraj as well as a physical therapist in his office. In addition, the claimant underwent diagnostic testing on December 2, 2005 which included x-rays to the cervical spine, lumbar spine and right shoulder. It is notable that the x-ray of the lumbar spine was read to show positive findings at L4-5 and L5-S1. **There were over thirty medical visits related to this 2005 motor vehicle accident, with the last medical visit apparently being February 6, 2006, approximately fifteen (15) months prior the industrial accident.**

9. During the claimant's testimony before me, she alternately gave

testimony that these mis-statements were due to a failure in memory, that she did not feel the injury was significant as she did not miss time from work and, then, that she did not purposely give mis-statements.

10. I have determined that the claimant was not truthful in her dealings with treating doctors, and in her sworn testimony during deposition. It is notable that, during cross-examination at the July 2008 evidentiary hearing before me, the claimant was able to provide remarkable detail with respect to the industrial accident that occurred in May of 2007. These details included specific circumstances regarding her slip and fall, with the approximate time that the injury occurred and even the day of the week. However, the claimant asked me to believe that she did not remember the 2005 motor vehicle accident and injury to her back and *extensive* treatment, even though her last medical evaluation for that condition occurred approximately fifteen (15) months prior to the time that she denied such to Dr. Brown in May of 2007.

11. As a result of the above, I have concluded that the claimant is in violation of §440.105(4)(b), Florida Statutes (2007). Hence, in accordance with §440.09(4), Florida Statutes (2007), the claimant is disqualified from receiving further benefits of any nature under the workers' compensation law.

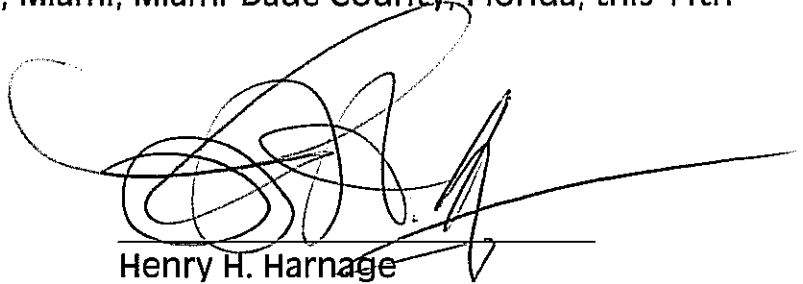
**WHEREFORE, it is ORDERED AND ADJUDGED as follows:**

A. The claimant's outstanding Petitions for Benefits of 6/18/07, 6/28/07, 9/21/07, and 10/01/07 are dismissed with prejudice.

B. The claimant is disqualified from receiving workers compensation benefits for the alleged industrial accident occurring May 10, 2007, by operation of law.

C. All hearings pending before the Offices of the Judges of Compensation Claims or the state mediator are cancelled.

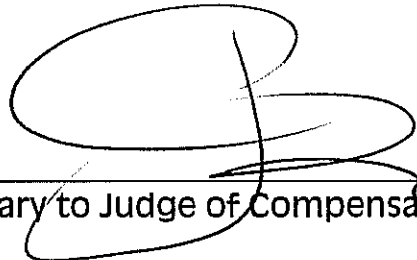
**ORDERED** in Chambers, Miami, Miami-Dade County, Florida, this 11th day of July, 2008.



Henry H. Harnage  
Judge of Compensation Claims

**CERTIFICATE OF SERVICE**

**THIS IS TO CERTIFY** that the foregoing Order was entered on the 11<sup>th</sup> day of July, 2008, and that a copy was sent by regular U.S. Mail to all parties and attorneys as noted above at their last known addresses.



Secretary to Judge of Compensation Claims