

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

Harry Blackwell,)	
Employee/Claimant,)	
)	
vs.)	
)	OJCC Case No. 08-028012LAR
Wave Construction, Inc./First Commercial)	
Insurance Company, and Unisource)	Accident date: 12/11/2003
Administrators, Inc.,)	
Employer/Carrier/Servicing Agent.)	Judge: Laura A. Roesch
_____)	

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

An evidentiary hearing was held before the undersigned on November 17, 2010. Attorney Julie Bixler appeared on behalf of the Employer/Carrier. Attorney Ed Green appeared on behalf of the Claimant. At issue was the *Employer/Carrier's Motion to Tax Costs*, as filed herein on September 20, 2010. Claimant did not file a response to the *Motion to Tax Costs*. The Employer/Carrier seeks an award of costs, arguing that it is the prevailing party in view of the *Voluntary Dismissal* filed by Claimant on August 24, 2010, the day before trial.

The Employer/Carrier seeks \$334.00 in costs incurred in defending against the claim in preparation of the trial. In support of its *Motion*, the Employer/Carrier attached the *Affidavit* of Brenda Robinson, Adjuster, regarding the amount of costs expended. After considering the *Motion* and being otherwise fully advised in the premises, this Court accepts the argument of defense counsel and finds the Employer/Carrier is the prevailing party and is therefore entitled to an award of the subject costs. See § 440.34(3), Fla. Stat.; Palm Beach County Sch. Dist. v. Ferrer, 990 So.2d 13 (Fla. 1st DCA 2008); Costco Wholesale Corp. v. Ulett, 995 So.2d 1016 (Fla. 1st DCA 2008). The undersigned accepts the *Affidavit* of Brenda Robinson, Adjuster, as evidence of the costs expended after rejecting the Claimant's objection to the inadmissibility of such *Affidavit*. See Hillsborough County Sheriff's Office v. Hilsman, 23 So.3^d 743 (Fla. 1st DCA 2009).

Based on the foregoing, it is hereby ORDERED and ADJUDGED that the *Employer/Carrier's Motion to Tax Costs* is granted. The Employer/Carrier is awarded costs in the amount of \$334.00 at the

expense of the Claimant.

DONE AND ELECTRONICALLY SERVED to counsel this 17th day of November 2010.



Laura Roesch
Judge of Compensation Claims
Division of Administrative Hearings
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THIS IS TO CERTIFY that the foregoing order was entered and that a copy was sent by electronically served to counsel this 17th day of November 2010.

/s/ L. Hickman

Deputy Clerk

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