

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS
OFFICE OF THE JUDGES OF COMPENSATION CLAIMS
SEBASTIAN/MELBOURNE DISTRICT OFFICE

Deborah L. Taylor,)	
Employee/Claimant,)	
)	
vs.)	
)	OJCC Case No. 12-018347DSR
Alphastaff, Inc./Tower Group Companies,)	
Employer/ Carrier/ Servicing Agent.)	Accident date: 5/18/2012
_____)	

EVIDENTIARY ORDER ON
MOTION TO TAX COSTS

This cause was heard before the undersigned at Sebastian, Indian River County, Florida on May 16, 2013, upon the Employer/Carrier's Motion to Tax Costs filed on April 9, 2013. A Response was filed by the Claimant on April 17, 2013. Julie Bixler, Esq. was present on behalf of the Employer/Carrier. Patrick Deese, Esq. appeared on behalf of the Claimant.

The following documentary items were received into evidence:

1. All documents required by Rule 9.180 (Judge's Exhibit #1).
2. Verified Objection to Employer/Carrier's Motion to Tax Costs and Motion to Strike filed on April 17, 2013 (Claimant's Exhibit #1).
3. Motion to Tax Costs & Affidavit in Support of Costs filed on April 9, 2013 (Employer/Carrier's Exhibit #1).
4. Petition for Benefits dated August 9, 2012 and Petition for Benefits dated September 20, 2012 (Employer/Carrier's Exhibit #2).
5. Mediation Conference Report of October 25, 2012 and December 6, 2012 (Employer/Carrier's Exhibit #3).
6. Order Approving Uniform Pretrial Stipulation and Pretrial Compliance Questionnaire filed on November 20, 2012 (Employer/Carrier's Exhibit #4).
7. Final Compensation Order filed on February 15, 2013 (Employer/Carrier's Exhibit #5).

At the hearing, Julie Bixler, Esq., and Patrick Deese, Esq., appeared and testified before me. In making my findings of fact and conclusions of law, I have carefully considered and weighed all the evidence presented to me. Although I will not recite in explicit detail the witnesses' testimony and may not refer to each piece of documentary evidence, I have attempted to resolve all of the conflicts in the testimony and evidence. Based on the foregoing and the applicable law, I make the following findings:

1. The parties stipulated that the Claimant suffered an industrial accident arising out of and in the course and scope of her employment on May 18, 2012.

2. The Claimant filed Petitions for Benefits on August 9, 2012, and September 20, 2012.

3. A Final Hearing on the Merits was held on February 1, 2013. The Claimant was seeking compensability of her cervical condition and authorization for medical care. A Final Compensation Order was entered by the undersigned on February 15, 2013, denying all claims.

4. The Employer/Carrier filed a Motion to Tax Costs on April 9, 2013. Attached to the Motion was a Verified Affidavit in Support of Costs filed by Paul L. Luger, Esquire, the Employer/Carrier's attorney. The Employer/Carrier is seeking reimbursement of costs in the amount of \$5,794.03 as the prevailing party.

5. The Claimant, through her attorney, filed a Verified Objection to the Employer/Carrier's Motion to Tax Costs and Motion to Strike Same on April 17, 2013.

6. The Claimant asserts that the Motion to Tax Costs should be stricken for the Employer/Carrier's failure to file a verified motion pursuant to Rule 60Q-6.124(3)(a). I find that the Employer/Carrier complied with this Rule by filing the Verified Affidavit with the Motion.

7. The Claimant also asserts that the Motion should be stricken since it was not filed within 30 days after the Final Compensation Order was entered, citing Rule 1.525 of the Florida

Rules of Civil Procedure. I find that the Employer/Carrier was not obligated to file the Motion within 30 days as the Civil Rules of Procedure do not apply to this Motion. Rule 60Q-6.124 applies to this Motion and there is no time limitation contained in the Rule which would render the Motion untimely.

8. For clarity purposes, I have attached the Employer/Carrier's delineation of the costs and have numbered them 1-18. Of the costs requested by the Employer/Carrier, the Claimant did not object to items 1, 5,6,7,8,12,14,15, or 16 in her Verified Objection. As such, I find that the Claimant is responsible to reimburse those costs totaling \$2,188.50 to the Employer/Carrier, without further discussion by the undersigned.

9. The Motion to Tax Costs only requires a "detailed list of all taxable costs advanced or incurred." This does not require the movant to submit invoices or receipts, Hillsborough County S.O. v. Hilsman, 1D09-1712. I have reviewed the requested costs in light of the Uniform Guidelines for Taxation of Costs and the case of Marton v. Florida Hospital, 98 So. 3d 754 (Fl 1st DCA 2012), as well as the other relevant caselaw.

10. The Claimant objected to the payment for phone conferences of \$375.00 to Dr. Sands and \$250.00 to Dr. Benjamin. Based on the evidence before me I find that the Employer/Carrier is entitled to reimbursement of pre-deposition costs, but the amounts requested are excessive given the amount of time the conferences lasted, Brascom v. Hillsborough County S.O., 65 So. 3d 619 (Fla. 1st DCA 2011). I find that the Claimant shall reimburse the Employer/Carrier \$200.00 for each of those physician conferences.

11. The Claimant objected to the attendance and deposition fees to the Court Reporters for the two adjusters and Dr. Benjamin. The Claimant also objected to the fee to swear the adjuster in at her home office. Based on the necessity of the adjuster to be sworn in I find that the fee is reimbursable. All three of the depositions were admitted into evidence and considered by the

undersigned. There is no evidence that the amounts charged are not the usual and customary rates for the area. I find that these are reasonable taxable costs that must be reimbursed to the Employer/Carrier.

12. The Claimant also objected to the costs for medical records produced by STAT Imaging Solutions. Based on the testimony at the hearing I find that these are also reasonable taxable costs that must be reimbursed to the Employer/Carrier.

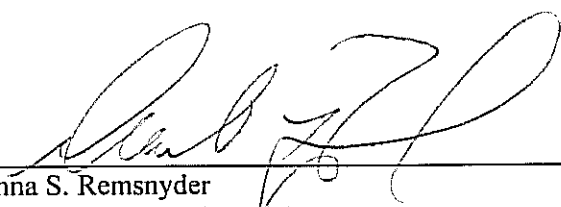
13. The Claimant objected to the \$450.00 charged by Dr. Benjamin for his deposition on January 30, 2013. The deposition was received into evidence and it shows that it only lasted 50 minutes. There is no evidence before me that Dr. Benjamin charged additional amounts for reviewing medical records or anything else in preparation for the deposition. Dr. Benjamin is an authorized physician and he is limited to \$200.00 per hour. As such, I find that the Claimant shall reimburse the Employer/Carrier \$200.00 for that deposition.

14. Based on the totality of the evidence before me I find that the Claimant shall reimburse \$ 5,319.03 to the Employer/Carrier for the taxable costs of these proceedings.

WHEREFORE, it is hereby ORDERED and ADJUDGED that:

The Claimant shall reimburse \$5,319.03 to the Employer/Carrier as the taxable costs of these proceedings.

DONE AND ORDERED IN CHAMBERS AND ELECTRONICALLY MAILED this 31st day of May, 2013, in Sebastian, Indian River County, Florida.



Donna S. Remsnyder
Judge of Compensation Claims
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	Invoice Date	Amount	Payee	Description of costs	Date Paid
1	10/15/2012	\$435.50	Angell Reporting Service	Attendance/Deposition of Deborah Taylor	11/9/2012
2	11/19/2012	\$375.00	Dr. Kenneth Sands	Payment for phone conference	4/5/2013
3	10/17/2012	\$200.00	Dr. Jonathan Paine	Payment for phone conference	10/17/2012
4	12/7/2012	\$250.00	Dr. Johnny Benjamin	Payment for phone conference	12/13/2012
5	1/25/2013	\$317.30	OrangeLegal	Deposition transcript of Susan Duffy (Records custodian of Wuesthoff Hospital)	2/14/2013
6	12/10/2012	\$50.00	Joseph Rich, CPS	Process Server for deposition of Susan Duffy (Records custodian of Wuesthoff Hospital)	12/31/2012
7	1/28/2013	\$353.55	OrangeLegal	Deposition transcript of Dr. Jonathan Paine	2/14/2013
8	12/13/2012	\$200.00	Dr. Jonathan Paine	Payment for deposition	1/22/2013
9	1/30/2013	\$713.00	Regency Reporting, Inc.	Attendance/Deposition of adjusters, Julie Askew and Lisa Sabattini	2/5/2013
10	2/1/2013	\$70.00	Vincent M. Lucente & Associates	Appearance Fee to Swear in Adjuster for deposition	2/14/2013
11		\$450.00	Dr. Johnny Benjamin	Payment for deposition	1/29/2013
12	2/8/2013	\$132.50	OrangeLegal	Appearance Fee for court reporter at final hearing	2/28/2013
13	1/30/2013	\$774.90	Regency Reporting, Inc.	Attendance/deposition of Dr. Johnny Benjamin	2/14/2013
14	1/22/2013	\$272.50	Angell Reporting Service	Deposition transcript of Melissa Knight	2/5/2013
15	1/28/2013	\$231.40	OrangeLegal	Deposition transcript of Dr. Richard Smith	2/5/2013
16	12/5/2012	\$195.75	Angell Reporting Service	Deposition transcript of Dr. Kenneth Sands	12/31/2012
17	12/12/2012	\$737.00	STAT Imaging Solutions	Medical records from Wuesthoff Hospital	1/15/2013
18	11/20/2012	\$35.63	STAT Imaging Solutions	Abstract medical records from Wuesthoff Hospital	1/2/2013
	TOTAL:	\$5,794.03			

ATTACHMENT