

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

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**EMPLOYEE:**

Cheryl Pugsley  
628 Red Robin Road  
Seffner, FL 33584

**ATTORNEY FOR EMPLOYEE:**

Carl A. Feddeler, Esquire  
P.O. Drawer 1089  
Lakeland, FL 33802

**EMPLOYER:**

Highlands County Sheriff's Department  
434 Fernleaf Avenue  
Sebring, FL 33870

**ATTORNEY FOR  
EMPLOYER/CARRIER:**

Kimberly C. DeArcangelis, Esquire  
1560 Orange Avenue  
Suite 500  
Winter Park, FL 32789

**CARRIER:**

Florida Sheriff's Workers' Compensation  
Self-Insurance Fund, serviced by  
North American Risk Services  
P.O. Box 945055  
Maitland, FL 32974

**OJCC #:** 09-021864 MHH

**D/Accident:** 12/01/08

**Judge:** Mark H. Hofstad

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**FINAL ORDER AWARDING COSTS**

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On April 1, 2010, the Employer/Carrier/Service Agent filed a Motion to Tax Costs in the above referenced matter. On May 12, 2010, a hearing on the Employer/Carrier/Service Agent's Motion to Tax Costs was held before Mark H. Hofstad, Judge of Compensation Claims (JCC) in Lakeland, Polk County, Florida. The Claimant was represented by Carl A. Feddeler, Esquire. The Employer/Carrier/Service Agent was represented by Kimberly C. DeArcangelis, Esquire. The following is the JCC's decision.

**Exhibits**

**Employer/Carrier's Exhibit:**

1. Motion to Tax Costs and supporting documents.

Claimant's Exhibit:

1. Claimant's Response to Employer/Carrier's Motion to Tax Costs.

The Claimant filed a petition for benefits on August 24, 2009 seeking temporary total disability benefits, temporary partial disability benefits as well as penalties, interest, costs and attorney fees. The parties attended a private mediation on February 25, 2010. No benefits were secured at the mediation. The Mediation Settlement Agreement reflects, "The Claimant agrees to withdraw all currently pending PFBs without prejudice." The Mediation Settlement Agreement also provided for the cancellation of the scheduled final hearing. Pursuant to Section 440.34(3), Florida Statutes and the interpretation thereof within *F.A. Richard and Assoc. v. Fernandez*, 975 So.2d 1224, the Employer/Carrier/Service Agent is entitled to reimbursement of costs as the prevailing party.

The Employer/Carrier/Service Agent has requested reimbursement for the cost of private mediation in the amount of \$820.00. However, the state provides mediation services at no cost to the parties. In this case, the Employer/Carrier/Service Agent initiated and paid for the private mediation. This was elective and the Claimant had no obligation to agree to attend the mediation. There is no evidence that the Claimant agreed to pay any portion of the cost of the private mediation. Requiring the Claimant to pay for the private mediation would undermine the private mediation process. Reimbursement of the cost of the private mediation held February 25, 2010 is denied.

All of the remaining costs are for medical records secured from specific medical providers. Each cost is supported by an invoice indicating that the cost was paid. These costs constitute reasonable discovery and necessary preparation for the mediation and potential final hearing resulting from the petition for benefits filed by the Claimant.

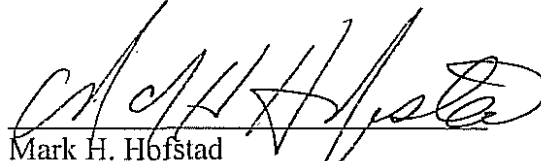
The Employer/Carrier/Service Agent requested cost reimbursement in the amount of \$1,104.01. The cost of the private mediation held February 25, 2010 in the amount of \$820.00 is not a reimbursable cost. The Claimant is responsible for reimbursing the

Employer/Carrier/Servicing Agent \$284.01 for securing medical records which were reasonable and necessary to defending the claims within the petition for benefits filed by the Claimant.

Wherefore, it is **ORDERED and ADJUDGED** that:

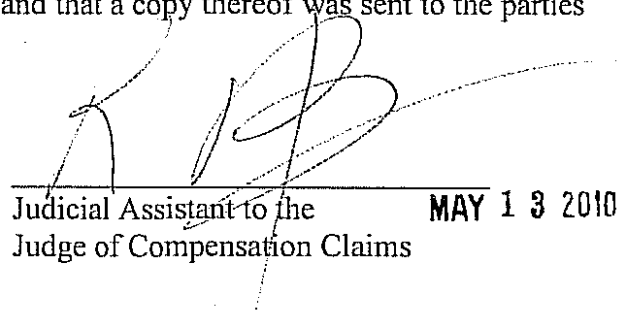
1. The Claimant shall reimburse the Employer/Carrier/Servicing Agent costs in the amount of \$284.01.

DONE AND ORDERED in Chambers in Lakeland, Polk County, Florida.

  
Mark H. Hofstad  
Judge of Compensation Claims

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that the foregoing order was entered on this 13<sup>th</sup> day of May, 2010, by the Judge of Compensation Claims, and that a copy thereof was sent to the parties identified above.

  
Judicial Assistant to the Judge of Compensation Claims      **MAY 13 2010**