

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

Yanelis Almenares,
Employee/Claimant,

vs.

OJCC Case No. 12-026398ERA, 12-026399ERA

Demetech Corporation, and Demetech
Corporation/Guarantee Insurance
Company, Guarantee Insurance Company,
Employer/Carrier/Service Agent.

Accident date: 5/28/2012

Judge: Edward Almeyda

EVIDENTIARY ORDER ON E/C'S MOTION TO TAX COSTS

This matter came before me, the undersigned Judge of Compensation Claims, for an evidentiary hearing on October 17, 2014 following the motion by the E/C to tax costs against the Claimant. The Claimant was represented by Albert Marroquin, Esquire, and the Employer/Carrier by Kate Albin, Esquire. On the evidence presented, this Order ensues.

DOCUMENTARY EVIDENCE PRESENTED:

Claimant:

OJCC 12-026399ERA

1. Response to motion to tax costs (158*)
2. Response dated 10/16/14 to motion to tax costs (159*)

Employer/Carrier:

OJCC 12-026399ERA

A. Verified motion with attachments (137*).

OJCC 12-026398ERA

B. Verified motion with attachments (152*)

*DOCKET ENTRY NUMBER

** HARD COPY EXHIBIT

*** FOR IDENTIFICATION ONLY

Abbreviations used herein:

Employer/Carrier, E/C

Maximum Medical Improvement, MMI

Income Impairment Benefits, IIB

Average Weekly Wage, AWW

FINDINGS OF FACT AND CONCLUSIONS OF LAW

In this consolidated case, the E/C is seeking to tax costs as the prevailing party against the Claimant.

At the time of the hearing the total costs sought are \$2,905.75.

Specifically, the Claimant objected to the fact that the bills were not attached and there was no record of payment. The undersigned finds that such requirement is not mandatory for this adjudication, particularly as the E/C's verified motion set forth the costs in detail, attaches an affidavit from the adjuster, and the statutory language only requires that the costs be incurred. The parties agreed to the use of the affidavit, in lieu of testimony.

Additionally the Claimant objected to a \$500.00 pre-IME conference between the E/C and their IME Dr. Segal. It is noted that Dr. Segal also charged \$1,000.00 for the IME. The undersigned does not find such cost not to be taxable, and there was no evidence presented to what otherwise would have been a "reasonable" cost. That objection is overruled.

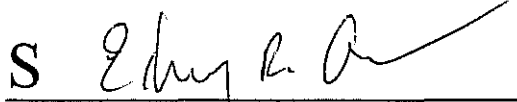
Next the Claimant objects to the excessive cost of \$1000.00 for this above IME. However the Claimant only presented argument of counsel, and no evidence that it is otherwise excessive. That objection is likewise overruled.

Lastly, the Claimant contends that \$250.00 deposition fee for a deposition of Dr. Segal lasting less than an hour is not permitted by law. She is correct in this respect, as F.S. 440.13 only permits \$200.00 per hour. As such only \$200.00 is allowed as a taxable cost

WHEREFORE, IT IS ORDERED AND ADJUDGED THAT:

1. The Claimant shall reimburse the Employer/Carrier the sum of \$2,855.75 as taxable costs.

DONE AND ORDERED this 17th day of October, 2014, in Miami, Dade County, Florida.



Edward Almeyda
Judge of Compensation Claims
Division of Administrative Hearings
Office of the Judges of Compensation Claims
Miami District Office
401 Northwest 2nd Avenue, Suite N-918
Miami, Florida 33128-3902
(305)377-5413
www.fljcc.org

COPIES FURNISHED:

Yanelis Almenares
2400 SW 19 ST
Miami, Florida 33145

Demetech Corporation
14175 NW 60 AVE
Miami Lakes, Florida 33014

Guarantee Insurance Company
PO Box 958470
Lake Mary, Florida 32795
alepore@pnigroup.com

Demetech Corporation
14175 NW 60 AVE
Miami Lakes, Florida 33014

Guarantee Insurance Company
PO Box 958470
Lake Mary, Florida 32795
alepore@pnigroup.com

Albert Marroquin
Richard E. Zaldivar, P.A.
2600 SW 3rd Avenue, Suite 900
Miami, Florida 33129
Amarroquin@zaldivarpa.com,denise.zaldivarpa@gmail.com

Andrew R. Borah, Esquire
Hurley, Rogner, Miller, Cox, Waranch & Westcott, P.A.
1280 SW 36th Avenue, Suite 100
Pompano Beach, Florida 33069
aborah@hrcmw.com, sfournier@hrcmw.com