

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

Gary L. Byrd,
Employee/Claimant,

OJCC Case No. 13-012701SMS

vs.

Accident date: 5/15/2013

YELLOW FREIGHT SYSTEM,
INC./Gallagher Bassett Services, Inc.,
Employer/Carrier/Service Agent.

Judge: Edward R. Almeyda

EVIDENTIARY ORDER ON MOTION TO TAX COSTS

This matter came before me, the undersigned Judge of Compensation Claims, for an evidentiary hearing on April 4, 2014 following the E/C's Amended Motion to Tax Costs dated 2/26/2014. The Claimant was represented by Carolyn Frank, Esquire, and the Employer/Carrier by Kate Albin, Esquire. On the evidence presented, this Order ensues.

CLAIMS/DEFENSES:

Claims:

1. Payment of costs in the sum of \$464.85.

Defenses:

1. Costs are unreasonably high.
2. Deposition was also used in another open OJCC case.

DOCUMENTARY EVIDENCE PRESENTED:

Claimant:

1. Response to Verified Motion dated 2/27/14.**
2. Notice of denial dated 2/21/13.**

Employer/Carrier:

- A. Deposition of Claimant taken 8/22/13.**

Judges Exhibits and proffers, or for Identification only:

- J1. Amended Motion to Tax Costs (27*).

*DOCKET ENTRY NUMBER
** HARD COPY EXHIBIT
*** FOR IDENTIFICATION ONLY

CONCLUSIONS OF LAW AND FINDINGS OF FACT:

1. From the E/C's Verified Motion to Tax Costs and the Claimant's Response, as well as the argument of counsel, it is gleaned that the Claimant has two pending matters with the same E/C. The E/C's position is that in the subject case the Claimant after discovery took a voluntary dismissal after the pre-trial, and as such the E/C is the prevailing party and entitled to costs pursuant to F.S. 440.34(3) and Rule 60Q-6.124(3), F.A.C. The cost sought to be taxed is in the amount of \$464.84 for the court reporters invoice for the transcript of the Claimant's deposition.

2. With reference to the first argument of the Claimant, that the bill is unreasonably high as to the per page cost and appearance fee, the argument or defense is denied. There was no evidence presented to support such a contention.

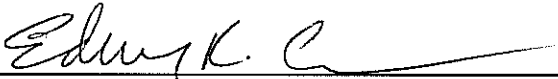
3. The second argument is that the deposition was taken in connection with/or used in both cases. The reading of this deposition does not reveal that it particularly dealt with any accidents other to the subject one. The historical questions in such an inquiry were typical of any deposition. As there was no other evidence suggesting t hat it was used in any other proceeding: such a contention, therefore, must be denied.

4. The undersigned finds that the E/C met their burden in showing that due to the Claimant taking a voluntary dismissal in the subject case they prevailed, and that the deposition cost sought to be taxed is appropriate.

WHEREFORE, IT IS ORDERED AND ADJUDGED THAT:

The Claimant shall pay the E/C the sum of \$\$64.84 as a proper taxable cost.

DONE AND ORDERED this 4th day of April, 2014, in Miami, Dade County, Florida.

S 

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