

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS
OFFICE OF THE JUDGES OF COMPENSATION CLAIMS
WEST PALM BEACH DISTRICT OFFICE

Pedro Ledesma,)	
Employee/Claimant,)	
)	
vs.)	OJCC Case No. 11-008299MAD
)	
JA Costume Fabricators,)	Accident date: 12/29/2010
Employer,)	
)	Judge: Mary A. D'Ambrosio
and)	
)	
Castle Point Florida Insurance Company,)	
Carrier/Service Agent.)	
_____)	

FINAL EVIDENTIARY ORDER

THIS CAUSE came before me for an Evidentiary Hearing on September 16, 2011, on the Employer/Carrier's Motion to Terminate Benefits filed on June 14, 2011. The Claimant was not represented by Counsel. The Claimant was notified of the hearing, but failed to attend.

EXHIBITS

1. August 9, 2011 Order Rescheduling Evidentiary Hearing – Judge's Exhibit #1;
2. August 9, 2011 Mediation Conference Report – Judge's Exhibit #2;
3. August 10, 2011 Order to Show Cause – Judge's Exhibit #3;
4. September 8, 2011 Order on Show Cause Hearing – Judge's Exhibit #4;
5. Petition for Benefits filed April 11, 2011 – Employer/Carrier's Exhibit #1;
6. Claimant's Deposition – Employer/Carrier's Exhibit #2;
7. Deposition of Records Custodian of GEICO with records – Employer/Carrier's

Exhibit #3;

8. Deposition of Records Custodian of Light Rehabilitation Center with records – Employer/Carrier’s Exhibit #4;

9. Deposition of Dr. Mas with attachments – Employer/Carrier’s Exhibit #5;

10. Employer/Carrier’s Motion to Terminate Benefits – Employer/Carrier’s Exhibit #6.

FINDINGS OF FACT

1. The Claimant was injured on December 29, 2010, while in the course and scope of employment. The Claimant sustained injury to his right hand and received authorized medical care and indemnity benefits.

2. On April 11, 2011, the Claimant filed a Petition for Benefits, alleging he injured his neck and back on December 29, 2010. The Claimant signed the Petition acknowledging the penalty for fraud.

3. The records in evidence from GEICO Insurance Company show the Claimant was involved in two automobile accidents: August 9, 2010 and December 23, 2010. GEICO paid, through PIP coverage, medical treatment for the Claimant’s cervical, thoracic and lumbar spine. GEICO paid Light Rehabilitation and Chiropractic Office of South Florida.

4. Light Rehabilitation and Dr. Mas treated the Claimant with therapy from August 12, 2010 through October 15, 2010 for a cervical, thoracic and lumbar sprain/strain injury following the August 9, 2010 automobile accident.

5. The Chiropractic Office of South Florida treated the Claimant with chiropractic modalities from December 23, 2010 through at least January 20, 2011 for a cervical, thoracic and lumbar sprain/strain injury following a December 23, 2010 automobile accident.

6. The Claimant gave sworn deposition testimony on May 24, 2011. He specifically denied ever having problems with his neck or back prior to December 29, 2010. He specifically denied having any injuries requiring treatment prior to December 29, 2010, other than treatment to his right shoulder and right knee following an automobile accident in July or August, 2010. He specifically denied any other automobile accidents; specifically denied any prior treatment for his neck or low back and denied any prior injury to his neck or low back.

CONCLUSIONS OF LAW

1. I find that the Claimant has violated F.S. 440.105(4)(b)1.2 and 3 by his filing of a Petition for Benefits requesting compensability of neck and back injuries and by providing sworn testimony in deposition which I find to be false, fraudulent and misleading for the purpose of obtaining benefits under Chapter 440.

2. Pursuant to F.S. 440.09(4)(a), I find that the Claimant is not entitled to any benefits under Chapter 440 for knowingly or intentionally engaging in the acts prohibited by F.S. 440.105.

3. The Claimant has violated Court Orders by failing to attend mediation on August 9, 2011, the Show Cause Hearing on September 1, 2011 and the Evidentiary Hearing on September 16, 2011, without any showing of good cause.

WHEREFORE, it is

ORDERED AND ADJUDGED:

1. The Motion to Terminate Benefits is hereby granted.
2. The Petition for Benefits filed on April 11, 2011 is dismissed with prejudice, and all benefits are barred pursuant to Sections 440.09(4)(a) and 440.105(4)(b), Florida Statutes.

DONE AND ORDERED this 21 day of September, 2011, in West Palm Beach, Palm

Beach County, Florida.

Mary A. D'Ambrosio



Mary A. D'Ambrosio
Judge of Compensation Claims
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing Final Evidentiary Order was entered on the 21 day of September, 2011, and that a copy thereof was electronically furnished to counsel for the Employer/Carrier and mailed to the Claimant.

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Este Leung

Secretary to Judge of Compensation Claims