

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

Eduardo Gonzalez Martinez,  
Employee/Claimant,

vs.

Keys Armored Express/Sunz Insurance,  
Employer/ Carrier/ Servicing Agent.

OJCC Case No. 12-012431MGK

Accident date: 5/2/2012

JCC: Edward R. Almeyda

**EVIDENTIARY ORDER ON CLAIMANT'S MOTION FOR ADVANCE**

This matter came before me, the undersigned Judge of Compensation Claims, for an evidentiary hearing held on January 29, 2014 on the Claimant's Motion for an Advance. The Claimant was represented by Scott Cohen, Esquire, and the Employer/Carrier by Mathew J. Troy, Esquire. On the evidence presented, this Order ensues.

**EVIDENCE PRESENTED:**

Claimant:

1. Motion for Advance (without exhibits) Claimant #1.

Employer/Carrier:

1. Response to Motion for Advance E/C #2

Live Testimony:

1. Claimant (with an interpreter)

**CONCLUSIONS OF LAW AND FINDINGS OF FACT:**

1. The Claimant is seeking an advance. In his motion he was asking for an advance of at least \$2,000.00, however at the conclusion of the hearing it was narrowed to an advance of \$2,000.00. The Employer/Carrier objected on the basis that the Claimant had neither demonstrated a legitimate interest in the advance nor shown that there was a nexus to the worker's compensation claim.

2. For Claimant to obtain an advance such as he is seeking he must demonstrate entitlement by

showing one of two factors. These are:

(a) That the Claimant has not returned to the same or equivalent employment with no substantial reduction in wages.

(b) That the Claimant has suffered a substantial loss of earning capacity or physical impairment, actual or apparent.

3. With this predicate in mind the claimant's testimony is considered. He is a 48-year-old male who speaks no English and who resides in Key West, Florida. He was injured in the subject accident on May 2, 2012, when an armored truck which he was driving was involved in a rear end collision. He received medical treatment from the Employer/Carrier following this accident. The Claimant at the time of the accident was earning \$13.65 per hour working about 14 hours per day. After the accident, while his work changed because of the injury, he continued to work until August 18, 2012, when he was terminated.

4. Thereafter he obtained another employment as a security guard and worked there until sometime in March 2013 when company closed. He has remained unemployed since then.

5. The Claimant testified that he presently has no income and has living expenses of about \$3,000.00. He lives with his wife and two young children. His wife earns about \$2,000.00 per month.

6. It is noted that the Claimant did not present a financial affidavit or any documentation to support his claim of expenses; however, he did testify as to those amounts. There was no medical documentation presented and there is not an apparent injury or impairment that can be readily observed. The Claimant's counsel conceded that there is no current pending petition for any form of indemnity benefits.

7. In order to reach a decision concerning this request an advance the undersigned must consider a statutory framework in chapter 440 whose principal purpose is to address medical and related financial needs arising from workplace injuries. In that context, the type of interest that is furthered by an advance under section 440.20(12)(c)(2) must at least have some plausible nexus to this purpose. A request for a \$2,000.00 advance, simply as an undifferentiated financial cushion with no relationship to the provision

of medical or related care does not have such a connection. See: *Esis v. Kuhn*, 104 So 3<sup>rd</sup> 1111 (Fla. 1st DCA, 2012).

8. Herein, the undersigned finds that while indeed the Claimant may be in financial need he has failed to demonstrate that such need results from the effects of the injury sustained in the subject accident. It is noted in this context that the Claimant continued to work for about one year post injury. There is been no demonstrated nexus between the requested advance and any type of medical care.

9. Therefore the requested advance as presently presented is Denied.

**WHEREFORE, IT IS ORDERED AND ADJUDGED THAT:**

1. The motion for advance is hereby DENIED.

DONE AND MAILED AND OR E-SERVED this 30th day of January 2014, in Miami, Dade County, Florida.



Edward R. Almeyda  
Judge of Compensation Claims  
Division of Administrative Hearings  
Office of the Judges of Compensation Claims  
Miami District Office

Eduardo Gonzalez Martinez  
1200 1st Street, Apt. D9  
Key West, Florida 33040

Sunz Insurance  
7405 N Tamiami Trail  
Sarasota, Florida 34243  
claim@sunzinsurance.com;

Keys Armored Express  
1517 Dennis Street  
Key West, Florida 33040

Scott C. Cohen, Attorney  
Schiller, Kessler, and Gomez  
7501 W. Oakland Blvd 2nd Floor  
Fort Lauderdale, Florida 33319  
Scott@injuredinflorida.com, karin@injuredinflorida.com

Matthew J. Troy  
Hurley Rogner Miller Cox Waranch & Westcott P.A.  
1560 Orange Ave., Suite 500  
Winter Park, Florida 32789  
mtroy@hrmcw.com,sperez@hrmcw.com

---