

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

**Claimant:**  
Sam Rucker

**OJCC Case No. 09-021177LAR**  
Accident date: 6/23/2009  
Judge: Laura Roesch

vs.

**Employer:**  
Furniture Your Way

**Attorney for Claimant:**  
Pro Se

and

**Attorney for Employer/Carrier:**  
Matthew Bennett, Esquire

**Carrier:**  
Tower Group Companies.

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FINAL COMPENSATION ORDER

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After due notice, a final merits hearing was convened before the undersigned Judge of Compensation Claims in Panama City, Bay County, Florida on October 23, 2013. At issue were claims flowing from a Petition for Benefits filed herein on April 24, 2013. The Claimant did not appear for trial.<sup>1</sup> Attorney Bowen Robinson appeared on behalf of the Employer/Carrier. Mediation occurred on July 9, 2013 and resulted in an impasse. The parties submitted a Pretrial Stipulation and this Court entered an Order approving same on August 16, 2013. The Employer/Carrier filed an Amendment to Pretrial Stipulation on September 20, 2013. Upon withdrawal of Claimant's attorney, a detailed notice of the final hearing was provided to Claimant at his address of record by U.S. Mail on August 23, 2013. Subsequent to the Order granting withdrawal of Claimant's counsel, no counsel filed a notice of appearance on behalf of the Claimant, nor was a request for a continuance filed or requested by the Claimant.

**Claims and Defenses:**

**According to the Pretrial Stipulation, Claimant sought the following benefits:**

1. Reauthorization of Dr. Rohan to treat Claimant's back, left shoulder and right arm injuries.
2. Authorization of a primary care or other suitable physician for treatment of abdominal hernia Claimant sustained while undergoing FCE for work-related injuries he sustained on date of accident, June 23, 2009.

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<sup>1</sup> Over the course of this case, Claimant has been represented by three attorneys.

3. Compensability.
4. Costs and Attorney Fees.

**The Employer/Carrier defended on the following grounds:**

1. Entire claim denied based upon Section 440.09(4), Florida Statutes (fraud defense).
2. Alleged industrial accident not the major contributing cause of ongoing disability or need for treatment.
3. No costs and attorney fees due.
4. Employer/Carrier seeks costs.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. The undersigned Judge of Compensation Claims has jurisdiction of the parties and the subject matter of this claim.

2. I find Claimant failed to appear for trial, despite proper notice of the final hearing being provided to him via U.S. mail on August 23, 2013 at his address of record. I find he has failed to meet the burden of proof necessary to establish a *prima facie* case for the benefits requested. Therefore, his claims are denied and dismissed with prejudice.

3. I find the Employer/Carrier herein is the prevailing party. As prevailing party, the Carrier is entitled to reimbursement of costs pursuant to Section 440.34(3), Florida Statutes. The undersigned reserves jurisdiction to determine the amount of such costs. It is, therefore,

ORDERED and ADJUDGED as follows:

- a) Claimant's claims for reauthorization of Dr. Rohan to treat Claimant's back, left shoulder and right arm injuries; authorization of a primary care or other suitable physician for treatment of abdominal hernia Claimant sustained while undergoing FCE for work-related injuries he sustained on date of accident, June 23, 2009; compensability; and costs and attorney fees, are denied and dismissed with prejudice.
- b) Jurisdiction is reserved to determine all issues pertaining to reimbursement of taxable costs to the Carrier at the expense of the Claimant.

DONE AND ORDERED in Panama City, Bay County, Florida.



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Laura Roesch  
Judge of Compensation Claims  
Division of Administrative Hearings  
Office of the Judges of Compensation Claims

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THIS IS TO CERTIFY that the foregoing order was entered herein and electronically served to counsel for the Employer/Carrier and served by U.S. Mail to the Claimant this 23rd day of October 2013.

/s/ L. Hickman  
Commission Deputy Clerk II

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