

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

EMPLOYEE:

William Mondragon
7717 West 36th Avenue
8
Hialeah Gardens, FL 33018

ATTORNEY FOR EMPLOYEE:

Richard E. Zaldivar, Esquire
Richard E. Zaldivar, P.A.
2600 S.W. 3rd Avenue, Ste. 300
Miami, FL 33129

EMPLOYER:

Southeast Personnel Leasing, Inc.
2739 U.S. Highway 19 N.
Holiday, FL 34691

ATTORNEY FOR

**EMPLOYER/CARRIER/SERVICING
AGENT:**

Robert S. Gluckman, Esquire
Hurley, Rogner, Miller, Cox, Waranch &
Westcott, P.A.
1280 SW 36th Avenue, Suite 100
Pompano Beach, FL 33069

CARRIER/SERVICING AGENT:

Lion-Insurance Company-Serviced-by:
Packard Claims Administration, Inc.
P.O. Box 1549
Tarpon Springs, FL-34688

OJCC NO.: 05-007640AMK

D/A: 2/3/2005

Judge: Alan M. Kuker

ORDER ON EVIDENTIARY HEARING

THIS CAUSE was submitted on the Employer/Carrier's Motion to Dismiss. Upon consideration of said Motion and upon hearing the argument of counsel, the undersigned Judge of Compensation Claims finds as follows:

1. The settlement documents were e-filed on July 17, 2009 under OJCC# 05-007640AMK date of accident February 3, 2005.
2. On July 20, 2009 this Court approved the Motion for Approval of Attorney's Fees and Allocation of Child Support Arrearage and erroneously filed the Order approving same under the OJCC #05-007694AMK for date of accident August 16, 2001.

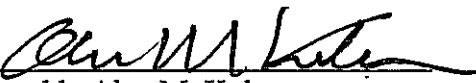
3. I find that by virtue of this erroneous filing, counsel for the Employer/Carrier was not notified that the Order had been entered as it was filed under the wrong date of accident (OJCC#05-007694AMK) for a date of accident of August 16, 2001 rather than the correct date of accident of February 3, 2005 with an OJCC# 05-007640AMK.

4. I find that the counsel for the Employer/Carrier Robert Gluckman, Esquire received notice of the settlement approval on August 25, 2009. I further find that the settlement checks were forwarded on August 25, 2009 via certified mail and that the settlement proceeds were therefore paid timely.

5. I find that any delay was not willful and as a result penalties and interest are not due or owing. See, Frix v. Allstate Insurance 854 So. 2d 258,259 (Fla. 1st DCA 2003); Horizon Health Care v. Murphy 660 So. 2d 1065 (Fla. 1st DCA 1995); Hannah v. Industrial Labor Services, Inc. 636 So. 2d 773 (Fla. 1st DCA 1994).

WHEREFORE, it is the Order of the undersigned Judge of Compensation Claims that the Employer/Carrier's Motion is granted and the September 9, 2009 Petition for Benefits is hereby dismissed with prejudice.

DONE and ORDERED in Chambers, in Dade County, Florida on this 15 day of Jan, 2010.


Honorable Alan M. Kuker
Judge of Compensation Claims

THIS IS TO CERTIFY that the foregoing Order was entered on the 15 day of JANUARY, 2010, and that a copy thereof was sent by EMAIL TO COUNSELS


Judicial Assistant