

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

Richard Jackson,)	
Employee/Claimant,)	
)	Judge: Neal P. Pitts
vs.)	
)	OJCC Case No. 10-009785NPP
YRC, Inc./Gallagher Bassett Services, Inc., and)	
Gallagher Bassett Services, Inc.,)	Accident date: 2/1/2010
Employer/ Carrier/Servicing Agent.)	
_____)	

FINAL EVIDENTIARY ORDER

This cause came on for an evidentiary hearing before the undersigned Judge of Compensation claims on June 6, 2011 in Orlando, Orange County, Florida, upon the E/C's Verified Motion to Tax Costs filed with DOAH on April 6, 2011, with no written response having been filed thereto by the claimant. The claimant was represented at the hearing by Jonathan Rotstein, Esquire. The employer was represented by Scott Miller, Esquire. No live testimony was received during the hearing.

The claim for determination at the hearing was:

1. Taxation of reasonable costs against the claimant in favor of the EC as the prevailing party pursuant to section 440.34(3), Fla. Stat.

The following documents were admitted into evidence:

Judge's Exhibits

1. Final Compensation Order rendered on January 18, 2011.

Employer's Exhibits

1. Employer/Carrier's Verified Motion to Tax Costs filed with DOAH on April 6, 2011; and
2. Invoices supporting the costs set forth in the verified motion.

In making my findings of fact, I have carefully considered and weighed all of the evidence presented to me. Although I may not reference each piece of evidence presented by the parties, I have carefully considered all the evidence and the exhibits in making my findings of fact. I have resolved all conflicts in the evidence, both live testimony and by deposition, where they existed. Based upon the evidence, I make the following findings of fact:

1. I have jurisdiction of the parties and the subject matter of these claims.
2. In the January 18, 2011 Final Compensation Order, based upon the EMA opinion which was accepted by the undersigned, the Employer prevailed in its defense that the claimant knowingly and intentionally made false and misleading statements which were made for the purpose of obtaining workers' compensation benefits in violation of the provisions of §440.105(4)(b), and therefore, is

barred from receiving any further benefits. The Order further awarded the EC costs.

3. This Compensation Order was not appealed. As such, the Employer is the prevailing party and entitled to the taxation of reasonable costs against the claimant pursuant to the provisions of §440.34(3), Fla. Stat.
4. No written defenses were raised by the Employee through the filing of a written response to the EC's Motion To Tax Costs as required by Rule 60Q-6.124(3)(b). Additionally, there was no evidence presented by the claimant at the hearing in an effort to establish good cause as to why no written response was filed. Such rule further provides that "failure to file a timely and specific response to a motion for attorney's fees and costs shall, absent good cause, result in the acceptance of the allegations in the motion as true."
5. I accept the EC's affidavit, as supported by the attached invoices, and so find that Seven Thousand and Twenty-three Dollars and eighty one cents (\$7,023.81) to be the reasonable amount of costs to be taxed against the claimant. I arrived at such amount by accepting as true the allegations in the EC's Motion To Tax Costs. Having filed no written objections thereto, and having presented

no evidence to establish good cause for his failure to do so, I am compelled to award the entire costs requested by the EC.

DONE AND ORDERED this 6th day of June, 2011, in Orlando, Orange County, Florida.



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