

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

Monette Ogeris,)	
Employee/Claimant,)	
)	Judge: Neal P. Pitts
vs.)	
)	OJCC Case No. 11-006686NPP
Delaney Park Health &)	
Rehabilitation/Gallagher Bassett Services, Inc.,)	Accident date: 11/29/2010
Employer/ Carrier/ Servicing Agent.)	
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FINAL EVIDENTIARY ORDER

This cause came on for an evidentiary hearing before the undersigned Judge of Compensation claims on February 23, 2012 in Orlando, Orange County, Florida, upon the E/C's Verified Motion to Tax Costs, filed with DOAH on November 30, 2011, to which the claimant filed a written response and objections thereto with DOAH on December 23, 2011. The claimant was represented at the hearing by Michael Clelland, Esq. The employer was represented by Scott Miller, Esq. 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. Notice of Voluntary Dismissal With Prejudice filed by the claimant on October 20, 2011;
2. Petition For Benefits filed with DOAH on March 28, 2011;
and
3. Mediation Conference Report reflecting a mediation held on July 11, 2011.

Employer's Exhibits

1. Employer/Carrier's Verified Motion to Tax Costs, filed with DOAH on November 30, 2011; and
2. Affidavit Regarding Costs.

Claimant's Exhibit

1. Claimant's Response To The E/C's Verified Motion to Tax Costs, filed with DOAH on December 23, 2011.

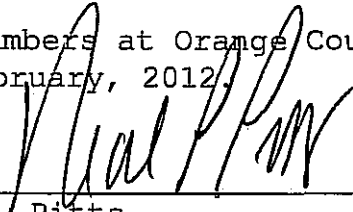
In making my findings of fact, I have carefully considered and weighed all of the evidence presented to me. Although I may not reference each piece of evidence presented by the parties, I have carefully considered all the evidence and the exhibits in making my findings of fact. I have resolved all conflicts 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. The claimant initiated a legal claim against the EC by filing a Petition For Benefits filed with DOAH on March 28, 2011. This petition medical care associated with the claimant's hematuria. The parties reached an impasse after a state mediation conference held on July 11, 2011. Subsequently, the claimant voluntarily dismissed with prejudice her Petition For Benefits filed with DOAH on March 28, 2011.
3. 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. on the issues regarding treatment with a urologist for the claimant's hematuria.
4. However, a number of 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). These defenses relate to the taxability of certain costs under the Statewide Uniform Guidelines For The Taxation Of Costs ("the guides").
5. Based upon the greater weight of the evidence, I find the sum of Four Thousand One Hundred-Eighty Dollars and forty seven cents (\$4,180.47) to be the amount of reasonable costs taxable against the claimant. I arrived at such

One Hundred-Eighty Dollars and forty seven cents
(\$4,180.47) for reasonable and taxable costs incurred by
the Employer in defending this action brought by the
claimant.

DONE AND ORDERED in Chambers at Orange County, County,
Florida, this 23rd day of February, 2012.



Neal P. Pitts
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