

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

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**EMPLOYEE:**

Doniel Parkes  
2113 SW Marble Head  
Port St. Lucie, FL 34953

**ATTORNEY FOR EMPLOYEE:**

Pro Se

**EMPLOYER:**

Covenant Transport  
400 Birmingham Hwy  
Chattanooga, TN 37422

**ATTORNEY FOR**

**EMPLOYER/CARRIER:**

Scott B. Miller, Esquire  
1560 Orange Avenue, Ste. 500  
Winter Park, FL 32789

**CARRIER:**

Gallagher Bassett Services - Nashville  
P.O. Box 292109  
Nashville, TN 37229

**OJCC #:** 08-026677 MHH

**D/Accident:** 01/22/08

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**FINAL ORDER AWARDING COSTS**

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On June 15, 2009, counsel for the Employer/Carrier filed a Motion to Tax Costs in the above referenced matter. A cost hearing was held on August 20, 2009. The following are the court's findings:

1. Lakeland District is the proper venue and this court has jurisdiction over the parties and the subject matter.
2. The following exhibits were tendered at final hearing:
  - a. Claimant Exhibits
    - i. The Claimant did not respond to the Employer/Carrier's Motion to Tax Costs.
  - b. Employer/Carrier Exhibits
    - i. Employer/Carrier's Motion to Tax Costs and supporting documents.
3. Findings of Fact and Conclusions of Law:
  - a. The Claimant filed a petition for benefits on October 3, 2008. The Claimant voluntarily dismissed the petition for benefits on January 8, 2009. This petition is not at issue in this matter.

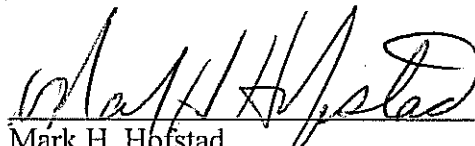
- b. The Claimant filed additional petitions for benefits on January 13, 2009 and March 26, 2009. The Employer/Carrier denied compensability as to all benefits petitioned for.
- c. The Claimant failed to appear for deposition on March 3, 2009 and April 17, 2009.
- d. On April 21, 2009, Judge of Compensation Claims Laura Roesch entered an order directing the Claimant to appear for deposition.
- e. On May 14, 2009, Judge of Compensation Claims Roesch entered an Order Dismissing Petitions for Benefits filed January 13, 2009 and March 26, 2009. The basis for dismissal was the Claimant's failure to appear for deposition as directed by the court and the Claimant's failure to respond to the court's Order to Show Cause entered May 4, 2009. As the result of dismissal of the two petitions for benefits, the Employer/Carrier is the prevailing party.
- f. Counsel for the Claimant withdrew as Claimant's counsel on June 4, 2009.
- g. The Employer/Carrier filed Employer/Carrier's Motion to Tax Costs on June 15, 2009 and noticed the hearing to take place on July 15, 2009. On July 15, 2009, the court continued the cost hearing as the Employer/Carrier scheduled the hearing approximately thirty (30) days from the filing of the motion. The Claimant is entitled to thirty (30) days to file a written response to the Motion to Tax Costs. In addition, the Claimant failed to appear for the cost hearing. The court also continued the case to assure that the claimant had proper notice of the cost hearing.
- h. The court rescheduled the cost hearing to take place on August 20, 2009. The Employer/Carrier noticed the Claimant of the cost hearing by certified mail on July 21, 2009. The court finds that the Claimant had proper notice of the hearing.
- i. The Claimant failed to appear for the cost hearing on August 20, 2009. The Claimant failed to dispute or object to the allegations contained within the Employer/Carrier's Motion to Tax Costs. Pursuant to 60Q-6.124(3)(b), "Failure to file a timely and specific response to a motion for attorney's fees and costs shall, absent good cause, result in acceptance of the allegations in the motion as true."

- j. The court finds that the Employer/Carrier prevailed in this litigation. The Employer/Carrier has established entitlement to reimbursement of reasonable costs relative to defending the claims asserted in the petitions for benefits. The Claimant has failed to respond to the Motion to Tax Costs and has failed to attend the hearing on the Motion to Tax Costs. The court has reviewed the costs referenced within the Motion to Tax Costs and finds them to be reasonable and necessary to the preparation of a proper defense. The Employer/Carrier has moved for reimbursement of costs in the amount of \$823.04. Based on the above, the court finds that the Claimant is responsible for reimbursing the Employer/Carrier the aforementioned costs.

Wherefore, it is **ORDERED and AJUDGED** that:

1. The Claimant shall reimburse the Employer/Carrier costs in the amount of \$823.04.

DONE AND ORDERED in Chambers in Lakeland, Polk County, Florida on this \_\_\_ day of \_\_\_\_\_, 2009.

  
Mark H. Hofstad  
Judge of Compensation Claims

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that the foregoing order was entered on this \_\_\_ day of \_\_\_\_\_, 2009, by the Judge of Compensation Claims, and that a copy thereof was sent to the parties identified above.

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Judicial Assistant to the  
Judge of Compensation Claims