

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS  
OFFICE OF THE JUDGES OF COMPENSATION CLAIMS  
ST. PETERSBURG DISTRICT OFFICE

Jessica Whitehouse,  
Employee/Claimant,

vs.

Judge: Stephen L. Rosen

Paramedics Plus,  
Employer,

OJCC Case No. 11-027599SLR

Crum & Forster,  
Carrier/Servicing Agent.

Accident date: 3/14/2011

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**EVIDENTIARY ORDER DENYING APPOINTMENT EXPERT MEDICAL ADVISOR**

**This Cause** came on for hearing before the undersigned Judge of Compensation Claims on September 17, 2013. The claimant, Jessica Whitehouse, was represented by Christopher Young, Esq. The Employer, Paramedics Plus, and the Carrier, Crum and Forster were represented by Teri Ann Bussey, Esq.

**Claimant's Exhibits:**

1. Motion to appoint expert medical advisor filed September 4, 2013, with attachments.
2. Report of M.K. El Yousef, M.D. filed September 11, 2013. The employer/carrier objected to the admissibility of this report that, although this witness is the claimant's independent medical examiner, the report had not been authenticated and is not qualified for admissibility as a business record exception to the hearsay rule. Based on existing case law, the objection was sustained in this report is held inadmissible.
3. Reports of Arthur Forman M.D. who was authorized to evaluate and treat the claimant.

**Employer/Carrier's Exhibits:**

1. Employer/carrier's response to claimant's motion to appoint psychiatric EMA filed September 13, 2013, with attachments.

After hearing arguments of the parties and otherwise being fully apprised of the facts and applicable law herein, I find that:

1. I have jurisdiction of the subject matter and the parties and the exhibits are admitted into evidence.

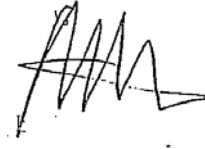
2. Based on the sustained objection of the employer/carrier in the instant case, the only admissible medical opinion thus far in the claim is that of Arthur Forman, M.D. because the records of the claimant's independent medical examination had not been authenticated at the time of this hearing. In the decision of the 1<sup>st</sup> District Court of Appeal in Young v. American Airlines, 100 So. 3d 1168 (Fla. 1<sup>st</sup> DCA, 2012), the DCA held: "Accepting Dr. Easterling's opinion here was error because the E/C never authenticated Dr. Easterling's medical records. Contrary to the E/C's argument below and on appeal, the exception to authentication provided by section 440.29(4), Florida Statutes, does not apply to independent medical examinations.

3. Therefore, because there is no evidence of a conflict between admissible medical opinions of 2 healthcare providers yet, the claimant's motion to appoint an expert medical advisor is DENIED.

4. This order is strictly confined to the appointment of the expert medical advisor and shall not be in any way construed as a ruling on the merits of the claim.

**DONE AND ORDERED** in chambers in St. Petersburg, Pinellas County, Florida.

DONE AND MAILED this 17th day of September, 2013, in St. Petersburg, Pinellas County, Florida.



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Stephen L. Rosen  
Judge of Compensation Claims  
Division of Administrative Hearings  
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