

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

Stanley Jones,)	
Employee/Claimant,)	
)	
vs.)	
)	OJCC Case No. 09-028457JTF
Royalty Foods, Inc./Gallagher)	
Bassett Services, Inc.,)	Accident Date: 2/11/2008
Employer/Carrier/)	
Servicing Agent.)	Judge John J. Lazzara
)	

ORDER TAXING COSTS

THIS MATTER came for hearing before the undersigned Judge of Compensation Claims on November 2, 2010, in Orlando, Orange County, Florida and simultaneously in Tallahassee, Leon County, Florida via the Division of Administrative Hearings' video teleconferencing system. The purpose of the hearing was to consider the employer/carrier's Verified Motion to Tax Costs filed on July 1, 2010, together with attached copies of the Final Order entered by the undersigned judge on June 24, 2010 and various invoices depicting costs incurred by the carrier in the defense the claimant's Petition for Benefits which was heard on June 23, 2010. After reviewing and considering the merits of said motion; the sworn testimony of Stanley Jones and Nikole Bovee, Claims Adjuster for Gallagher Bassett Services - Orlando, and after reviewing the evidence presented, the undersigned judge finds as follows:

1. On June 24, 2010 a Final Order was entered in the captioned case in favor of the employer/carrier denying the claimant's Petition for Benefits filed on 11/5/2009, which requested pain management care for right shoulder condition. The order found that the alleged right shoulder condition was not compensable. Moreover, the order held that the employer/carrier was the prevailing party in the case and that the claimant, Stanley Jones, was ordered to pay the cost of the employer/carrier in the defense of the aforesaid claim. The amount of said cost was deferred for a later hearing.

2. Section 440.34(3), Florida Statutes, provides that "[i]f any party should prevail in any proceedings before a judge of compensation claims or court, there shall be taxed against the non-prevailing party the reasonable costs of such proceedings, not to include attorney's fees..." Mr. Jones objected to the motion to tax

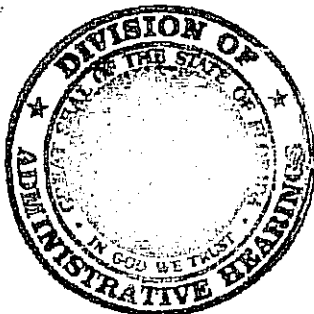
costs on the grounds that he was not advised by his former attorney, Carrie Hixson, Esquire, of Vaughn Law Group, P.A., that he would be responsible for the defense costs in the event that he did not prevail in his claim; that he is unemployed; and that he has no funds within which to pay said costs, in other words -- he is indigent.

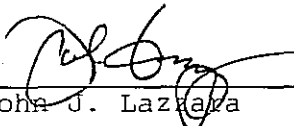
3. Unfortunately for the claimant, none of the defenses or objections to the motion raised by Mr. Jones effect the employer/carrier's entitlement to the award for reimbursement of the costs they incurred as a result of the defense of Mr. Jones' claim. However, said objections might affect the ultimate recovery of any costs.

4. The employer/carrier asserts that the appropriate taxable costs which they seek reimbursement is \$8,154.41. After reviewing said costs and using the Statewide Uniform Guides for Taxation of Costs in Civil Actions, applicable in workers' compensation matters per Fla. Admin. Code 60Q-6.124(3)(e), I find that all costs listed are in fact taxable and reimbursable with the exception of the costs related to Dr. Chacko. There is insufficient evidence to relate Dr. Chacko's testimony or medical records relevant or attributable to the claim which was heard on June 23, 2010. Therefore, after deducting all costs related to Dr. Chacko and the \$24.00 for the FDLE Criminal History Report, the employer/carrier should be reimbursed costs in the amount of \$7,162.21. It is

ORDERED that the Employer/Carrier's Verified Motion to Tax Costs is hereby **GRANTED** and the employee, Stanley Jones, shall pay to the carrier, Gallagher Bassett Services - Orlando, the prevailing party in the above matter, the sum of \$7,162.21 as reimbursement for their cost in the defense of the Petition for Benefits filed on November 5, 2009.

DONE AND ORDERED in Chambers at Tallahassee, Leon County, Florida.

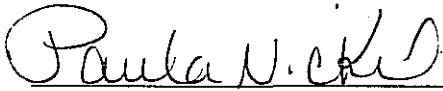




John J. Lazarka
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing order was entered and a copy was furnished by U.S. Mail to counsel of record and the parties below on this 5th day of November, 2010 at the following addresses:



Secretary to
Judge of Compensation Claims

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