

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

JERMAN R. WHEELER,
Employee/Claimant

vs.

OJCC Case No. 14-020734-TWS

COASTAL DELIVERY, INC.
Employer

Accident date: 04/03/2014

and

NONE

Carrier

Judge: Thomas W. Sculco

_____ /

EVIDENTIARY ORDER ON EMPLOYER/CARRIER'S MOTION TO ENFORCE
SETTLEMENT

After proper notice to all parties, a hearing was held on this claim in Orlando, Orange County, Florida on October 27, 2015. The claimant is not represented by Counsel. The Employer is represented by W. Rogers Turner, Jr., Esquire.

This Order addresses the E/C's Motion to Enforce Settlement filed with the OJCC on May 8, 2015.

DOCUMENTARY EVIDENCE:

- #1 E/C: Motion to Enforce Settlement
May 8, 2015
- #2 E/C: Affidavit of Jeffrey J. Bordulis, Esq.
- #3 E/C: Correspondence-Settlement Negotiations
- #4 E/C: Settlement Agreement and Release
- #5 E/C: Confidential Settlement Agreement
- #6 E/C: Witness List
- #7 Claimant's: E-mail Messages

After hearing all of the testimony and evidence presented, and after having resolved any and all conflicts therein, the undersigned Judge of Compensation Claims makes the following findings of fact and conclusions of law: The issue in this case is whether the parties reached a binding and enforceable settlement agreement of claimant's workers' compensation claim.

A party seeking to enforce a settlement agreement must establish that the resisting party's attorney had clear and unequivocal authority to settle on the client's behalf. *Fivecoat v. Publix Super Markets, Inc.*, 928 So.2d 402 (Fla. 1st DCA 2006); *Vantage Broad. Co. v. WINT Radio, Inc.*, 476 So.2d 797 (Fla. 1st DCA 1985). Here, on 3/13/15 claimant's former attorney Lyle Masnikoff and E/C counsel Rogers Turner reached a settlement

agreement of claimant's workers' compensation case, as well as all employment law claims, for \$15,000 total, out of which claimant would receive a net amount of \$11,000.00, including a \$2,000.00 advance. Claimant argues that he did not give his attorneys authorization to settle his workers' compensation case unless his employment discrimination claims were not included in the settlement. After considering the evidence presented, I find that claimant did provide clear and unequivocal authority for his attorneys to settle both his workers' compensation and employment claims for \$11,000.00 net "in his pocket", and therefore that the settlement agreement documented in attorney Masnikoff's 3/20/15 correspondence is valid and enforceable.

Specifically, I accept attorney Masnikoff's testimony that Mr. Wheeler gave him clear and unequivocal authority to settle both his workers' compensation and employment claims for \$11,000.00 net "in his pocket". Mr. Masnikoff's testimony is logical, reasonable, and consistent with his subsequent conduct. I reject claimant's contrary testimony as lacking in credibility, based on my assessment of his demeanor, and on the reasonableness of his version of events. I specifically reject claimant's testimony that on 3/11/14 attorney Masnikoff told him that the settlement would not include employment claims.

WHEREFORE it is hereby **ORDERED** and **ADJUDGED** that:

1. The parties entered into a valid and enforceable settlement agreement of claimant's workers' compensation case, as well as all employment law claims, for \$15,000 total, out of which claimant would receive a net amount of \$11,000.00, including a \$2,000.00 advance.
2. The parties are ordered to comply with the terms of this settlement agreement. Upon my approval of attorney's fees and allocation of child support, the E/C is ordered to pay the amount owed to claimant (\$11,000) directly to claimant, and to pay the amounts owed to Mr. Masnikoff in attorney's fees and costs, delineated in Mr. Masnikoff's 3/20/15 correspondence to attorney Turner, (\$2,000.00 in claimant-paid attorney's fees, \$1,500.00 in E/C-paid attorney's fees, and \$500 in claimant-paid costs) directly to Mr. Masnikoff.
3. All pending petitions for benefits are DISMISSED WITH PREJUDICE.

DONE and ORDERED in Orlando, Orange County, Florida.

This 5th day of November, 2015

Thomas W. Sculco



Thomas W. Sculco

Judge of Compensation Claims
Division of Administrative Hearings
Office of the Judges of Compensation Claims
Orlando District Office
www.jcc.state.fl.us

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CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that the Order was entered by the Judge of Compensation Claims. I certify that the Order was electronically served on the attorney(s) of record. Party or parties not represented by counsel shall be served by U.S. Mail-Tallahassee

Maule Miller 11/05/2015

Assistant to Judge Sculco
Orlando District