

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

Barbara Miranda,
Employee/Claimant,

vs.

OJCC Case No. 12-011987RDM

Frank Crum/Broadspire,
Employer/ Carrier/Servicing Agent.

Accident date: 8/24/2010

EVIDENTIARY ORDER TAXING COSTS

AN EVIDENTIARY HEARING was conducted July 24, 2013, pursuant to the "Employer/Carrier's Motion to Tax Costs" filed April 1, 2013. A final compensation order was entered March 5, 2013, denying a Petition for Benefits seeking a determination that claimant sustained a compensable industrial accident on August 24, 2010. The employer/carrier (E/C) now seeks to tax costs incurred in connection with that litigation.

I find the judge of compensation claims (JCC) has jurisdiction over the parties and subject matter. The parties were properly notified of the evidentiary hearing. Costs are taxable against claimant pursuant to section 440.34(3) as the non-prevailing party.

The identical parties were involved in another workers' compensation case identified as case number 11-026007RDM. In accordance with *Hernandez v. Manatee County Gov't*, 50 So. 3d 57 (Fla. 1st DCA 2010), I find the following depositions taken in that case (but not taxed) and used in the present case are taxable: Rachel Oddo, \$118 .00; claimant, \$456.50; Yeiza Carrelero, \$206.60.

I find the following depositions charges are also taxable: Records Custodian, Lower Keys Medical Center, \$363.95; Records Custodian, USIS, \$350.90.

The charge incurred on May 16, 2012, connected with claimant's alleged failure to attend a deposition in case number 11-026007RDM and the resulting cost of \$75.00 for a certificate of nonappearance is not taxable. This charge might be assessable against claimant as a sanction in case number 11-026007RDM but it is not a taxable cost.

E/C seeks recovery of costs incurred totaling \$359.00 for the deposition transcript of Katheryn Neese. This witness was an employee of the defendant employer. E/C was permitted, over objection, to present her testimony by deposition. Given the limited time span of a workers' compensation trial, I found it appropriate to present this lay witness by deposition. However, E/C waited until a few days before the trial to secure her deposition testimony. As a result the court reporter's charges were enhanced due to preparing the transcript on an expedited basis. I find no basis for taxing these extra charges against claimant. Using the other court reporter charges as a guide, and finding \$4.50 as the appropriate per page charge, I find E/C may properly recover \$242.75 from claimant for this expense.

I find the following charges from various healthcare providers for copies of claimant's medical records are taxable: Palmetto General Hospital, \$8.19; Baptist Hospital, \$33.00; Dr. Burton, \$4.00; Mount Sinai Medical Center, \$201.97; Lower Keys Medical Center, \$99.89.

In reaching this decision I consider section 440.13(4)(b) limiting the charges of an authorized workers' compensation healthcare provider for producing records to \$.50 per page as well as section 395.3025 and Florida Administrative Code Rule 64B8-10.003 essentially limiting or encouraging other healthcare providers to limit their maximum per page charge to \$1 .00.

BASED ON the foregoing analysis, I find

The Employer/Carrier may recover costs incurred totaling \$2,085.75 from the claimant in this action.

DONE AND ORDERED this 31st day of July, 2013, in Port St. Lucie, St. Lucie County, Florida.



Robert D. McAliley
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I HEREBY certify that a true and correct copy of the foregoing has been e-mailed to Counsel on July 31st, 2013.

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