

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS
OFFICE OF THE JUDGES OF COMPENSATION CLAIMS
WEST PALM BEACH DISTRICT OFFICE**

Liana Fuentes,)	
Employee/Claimant,)	OJCC Case No: 10-009355TMB
)	
vs.)	Accident Date: 9/30/2009
)	
StaffLink Outsourcing, Inc.)	HONORABLE TIMOTHY M. BASQUILL
Employer,)	
)	
and)	
)	
SUA Insurance Company)	
Carrier/Servicing Agent)	
_____)	

**FINAL ORDER
GRANTING
EMPLOYER/CARRIER'S MOTION TO TAX COSTS**

This cause came before the undersigned Judge of Compensation Claims for a final evidentiary hearing on January 7, 2011, pursuant to a Motion to Tax Costs, filed herein by the Employer/Carrier, on November 22, 2010.

The following documentary matters, offered by the Employer/Carrier, were admitted into evidence:

1. Employer/Carrier's motion to tax costs, dated November 17, 2010, and
2. Affidavit in support of motion to tax costs.

The following documentary matters, offered by the Claimant, were received into evidence:

1. None.

No live testimony was provided at the hearing.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Claimant filed a petition for benefits, on April 20, 2010, requesting compensability; temporary total and/or temporary partial disability benefits from September 30, 2009, to present and continuing at the correct compensation rate per week; authorization of treatment with a medical doctor; authorization of payment of a Spanish translator, and attorney's fees, costs, penalties and interest. The undersigned entered an order on July 21, 2010 setting the matter for a pretrial on October 14, 2010, and a final hearing on November 16, 2010. The Employer/Carrier filed the deposition of Liana Fuentes, the Claimant, and Luban Quiceno, the Employer/Carrier's representative on November 11, 2010 in anticipation of the hearing. The Claimant voluntarily dismissed the subject petition on November 16, 2010, and the claims did not proceed to trial. In the interim, the Claimant filed another petition for benefits dated October 15, 2010, requesting authorization of an orthopedic specialist. That petition was not ripe for adjudication at the merits hearing scheduled for November 16, 2010, as the mediation for that petition was set for January 26, 2011.

Based on the voluntary dismissal the day of trial, the Employer/Carrier asserts it is the prevailing party and thus seeks reimbursement of certain costs pursuant to F.S. 440.34(3) and F.A. Richard and Associates v. Fernandez, 975 So.2d 1224 (Fla. 1st DCA 2008). In this case, the Employer/Carrier became the prevailing party when the Claimant voluntarily dismissed the subject petition. Costco Wholesale Corp v. Ulett, 995 So.2d 1016 (Fla. 1st DCA 2008). Notwithstanding that the Claimant had filed a subsequent petition for benefits, said October 15, 2010 petition was not ripe for adjudication at the time of the dismissal, I find that the Employer/Carrier prevailed on the only ripe petition and is entitled to costs as the prevailing party.

According to counsel's affidavit in support of motion to tax costs the Employer/Carrier was seeking recovery of costs totaling \$829.50. I have considered the guidance offered by Rule 60Q-6.124(3)(e), and the Statewide Uniform Guidelines of Taxation of Costs in Civil Actions when reaching a determination of what costs are reasonable. In doing so, I find that the Employer/Carrier has proven entitlement to reimbursement of certain costs as follows:

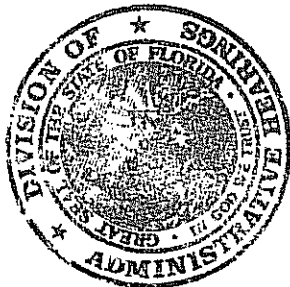
1. Prestige – Deposition of Liana Fuentes taken on 8/30/10 whereby costs include: Attendance of Reporter \$110.00, Transcripts \$201.60, Exhibits \$.50, and Shipping and Handling \$12.00 **Total: \$324.10**

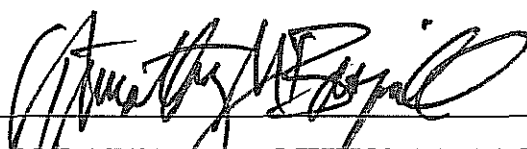
2. Prestige – Deposition of Luban Quiceno taken on 10/28/10 whereby costs include: Attendance of Reporter \$75.00, Transcripts \$92.40, Exhibits \$11.00 and Shipping and Handling \$12.00 **Total: \$190.40**
3. Gustavo E. Lairer, Interpreter & Translator – Attendance of translator at Deposition of Luban Quincero taken on 10/28/10 in the amount of \$85.00 **Total: \$85.00**
4. A.L. Tanslations – Attendance of Translator at Deposition of Liana Fuentes taken on 8/30/10 in the amount of \$230.00 **Total: \$230.00**
- GRAND TOTAL: \$829.50**

WHEREFORE, it is ORDERED and ADJUDGED that:

1. The Employer/Carrier's motion to tax costs is **GRANTED**, and
2. The Claimant shall reimburse the Employer/Carrier costs in the amount of **\$829.50**.

DONE and ORDERED in Chambers, West Palm Beach, Palm Beach County, Florida this 28 day of January, 2011.





HONORABLE TIMOTHY M. BASQUILL
Judge of Compensation Claims

CERTIFICATE OF SERVICE

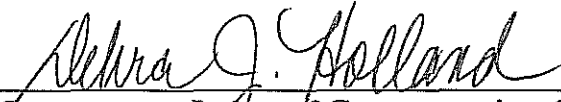
I HEREBY CERTIFY that a true and correct copy of the foregoing Pretrial Order has been e-mailed this 28th day of January, 2011 to the following counsel for the parties;

For Claimant:

Sandra McCauley, Esquire
Gonzalez & Garcia
sandramcauley@rocketmail.com

For Employer/Carrier:

Zal Linder, Esquire
Hurley, Rogner, Miller, Cox, Waranch & Westcott, P.A.
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Secretary to Judge of Compensation Claims