

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

Carlos Mateo,
Employee/Claimant,

OJCC Case No. 21-019304TAH

vs.

Accident date: 06/18/2021

Villatoro Roofing, LLC/Lion Insurance
Company,
Employer/Carrier/Servicing Agent.

Judge: Thomas A. Hedler

**FINAL EVIDENTIARY ORDER ON MOTION TO AMEND PRETRIAL
STIPULATION**

THIS CAUSE came before the undersigned Judge of Compensation Claims on February 25, 2022 for an evidentiary hearing on the Carrier's Motion to Amend Pretrial Stipulation, filed on February 8, 2022. The Claimant filed his Response on February 23, 2022. The hearing was conducted via video-conference on Zoom. The Carrier was represented by Anthony Amelio, Esq. The Claimant was represented by Albert Marroquin, Esq. The parties submitted the following exhibits:

CARRIER:

1. Deposition transcript of the records custodian for Delray Medical Center, filed on February 24, 2022 [Docket#45].
2. Uniform pretrial stipulation, filed on December 22, 2021 [Docket#22].
3. Motion to amend, filed on February 8, 2022 – for argument purposes [Docket#39].

CLAIMANT:

None

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The parties are scheduled for final hearing on March 18, 2022 for adjudication of the claims raised in the petition for benefits filed on August 23, 2021. On December 7, 2021, the undersigned entered an Order Setting Pretrial Stipulation Filing Date and Final Hearing, setting the pretrial stipulation filing

date of December 23, 2021. The parties filed the completed pretrial stipulation on December 22, 2021.

2. The pretrial stipulation reflected the claim is controverted, with numerous defenses asserted by the Carrier, including the assertion the Claimant violated section 440.105(4)(b)(9) by allegedly making a false statement for the purpose of securing workers' compensation benefits – specifically, providing a false social security number in a recorded statement.

3. On February 8, 2022, the Carrier filed the subject motion to amend the pretrial stipulation, to add a defense that the Claimant violated section 440.105(4)(b)(9) by allegedly making a false statement for the purpose of securing workers' compensation benefits – specifically, providing a false social security number to Delray Medical Center. The sought-after amendment further adds evidence related to the new defense, namely the records custodian for Delray Medical Center.

4. On February 23, 2022, the Claimant filed a response, in which he argued that the Carrier had not shown good cause as to why the additional defense could not have been raised in the pretrial stipulation, filed on December 22, 2021.

5. Rule 60Q-6.113(2)(a), *effective 2/14/22*, provides that any “and all available defenses not raised in the pretrial stipulation are waived unless thereafter amended by the judge for good cause shown.” The Rule further provides, “in no event shall an amendment...be used to raise a new claim or defense that could or should have been raised when the initial pretrial stipulation was filed, unless permitted by the judge for good cause shown.”

6. The Carrier argued the new defense was not known until the Claimant deposed the records custodian for Delray Medical Center, when it was learned that an invalid social security number may have been provided. The Carrier contended that it had no knowledge as to the relevance of the Delray Medical Center to the subject claim until the Claimant listed same in the initial pretrial stipulation, and the Carrier had no knowledge the Claimant provided an invalid social security number until the records custodian deposition on February 3, 2022. Though the Claimant argued that the Carrier had ample opportunity to obtain the information, he did not dispute the Carrier's contention that it had no knowledge of the Claimant treating at the Delray Medical Center for the industrial accident until it was introduced by the Claimant's deposition on February 3, 2022.

7. Based upon the evidence and undisputed argument presented, I find the

Carrier has established that the new defense was not known at the time of the pretrial stipulation. Accordingly, I find the motion to amend to include the new defense complies with the Rule - to allow new claims or defenses that could not have been raised. Further, I find the circumstances asserted to constitute good cause to amend the pretrial stipulation.

8. For the reasons set forth herein, it is hereby:

ORDERED and ADJUDGED THAT:

1. The Carrier's motion to amend the pretrial stipulation is **GRANTED**.

DONE AND SERVED this 28th day of February 2022, in West Palm Beach, Palm Beach County, Florida.



Thomas A. Hedler
Judge of Compensation Claims
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