

DOCKET NO. 453-02-3491.M5
Tracking No. M5-02-2102-01

CONTINENTAL CASUALTY COMPANY,	§	BEFORE THE STATE OFFICE
PETITIONER	§	
	§	
VS.	§	
	§	OF
TEXAS WORKERS' COMPENSATION	§	
COMMISSION AND GULF COAST	§	
ORTHOPAEDIC & SPINE,	§	ADMINISTRATIVE HEARINGS
RESPONDENTS	§	

DECISION AND ORDER

Continental Casualty Company (Petitioner) appealed the Decision of the Texas Workers' Compensation Commission (Commission).

The Administrative Law Judge (ALJ) concludes the Petitioner did not meet its burden of proof and therefore, the ALJ orders reimbursement.

The Petitioner had the burden of proof by a preponderance of the evidence. The Petitioner appeared through counsel at the September 23, 2002 hearing on the merits while Gulf Coast Orthopaedic & Spine (Respondent) did not appear. The Petitioner offered no evidence and moved for a default judgment.

Because the record is void of any evidence, the Petitioner failed to meet its burden of proof and the Respondent prevails.

I. Findings of Fact

1. Continental Casualty Company (Petitioner) appealed the decision of the Texas Workers' Compensation Commission (Commission).
2. The Petitioner appeared through counsel at the September 23, 2002 hearing on the merits.
3. Gulf Coast Orthopaedic & Spine (Respondent) did not appear at the September 23, 2002 hearing on the merits.
5. The Petitioner did not challenge either jurisdiction or notice.

6. The Petitioner offered no evidence and moved for a default judgment.
7. The record closed on September 23, 2002.

II. Conclusions of Law

1. The Commission has jurisdiction over this matter pursuant to Section 413.031 of the Texas Workers' Compensation Act (the Act), TEX. LAB. CODE ANN. ch. 401 *et seq.*
2. SOAH has jurisdiction over this proceeding, including the authority to issue a decision and order, pursuant to TEX. LAB. CODE ANN. §413.031(k) and TEX. GOV' T CODE ANN. ch. 2003.
3. The Petitioner had adequate and timely notice of the hearing in accordance with TEX. GOV' T CODE ANN. §2001.052.
4. The Petitioner has the burden of proof in this matter pursuant to 28 TEX. ADMIN. CODE §148.21(h).
5. The Petitioner failed to meet its burden of proof.
6. The Petitioner should pay the Respondent any and all sums of money awarded to the Respondent by the Commission in its Decision.

ORDER

IT IS, THEREFORE, ORDERED that Continental Casualty Company pay to Gulf Coast Orthopaedic & Spine any and all sums of money awarded by the Commission in its Decision.

SIGNED AT AUSTIN, TEXAS the 25th day of September 2002.

**HOWARD S. SEITZMAN
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**