

**WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA**

FRED VANNETTER, Applicant

vs.

**KONICA MINOLTA BUSINESS SOLUTIONS; SOMPO JAPAN INSURANCE
COMPANY OF AMERICA, as adjusted by BROADSPIRE,**

**Adjudication Number: ADJ6943085
San Bernardino District Office**

**OPINION AND DECISION
AFTER RECONSIDERATION**

We granted reconsideration in this matter to further study the factual and legal issues presented. This is our Opinion and Decision After Reconsideration.

I.

Applicant, Fred Vannetter, petitions for reconsideration of the Findings, Award and Order issued by the workers' compensation administrative law judge (WCJ) in this matter on February 26, 2020. In that decision, the WCJ found that subsequent to the stipulation of the parties on January 7, 2013, that applicant's industrial injury to his cervical spine, knees, wrists and gastrointestinal system during a cumulative period ending June 18, 2009, caused permanent partial disability of 55%, applicant did not suffer new and further disability.

Applicant contends in its petition for reconsideration that the WCJ erred in finding that applicant's injury did not cause new and further disability.

Defendant filed an answer to the petition for reconsideration, contending that it should be denied.

The WCJ issued a report in which she recommended that defendant's petition for reconsideration be denied.

Subsequently, at our request the parties participated in a commissioners' settlement conference and agreed to resolve applicant's claims by compromise and release. The Compromise and Release, which was filed on March 17, 2021, provides for a settlement amount of \$172,348.28,

less \$149,900.68 to fund a Medicare set aside trust and less an attorneys' fee of \$22,751. Defendant agrees to pay, adjust or litigate liens of record.

II.

Labor Code section 5001 states in pertinent part that “[n]o release of liability or compromise agreement is valid unless it is approved by appeals board or referee.” WCAB Rule 10700 states that:

“The Workers’ Compensation Appeals Board shall inquire into the adequacy of all compromise and release agreements and stipulations with request for award, and may set the matter for hearing to take evidence when necessary to determine whether the agreement should be approved or disapproved, or issue findings and awards.” (Cal. Code Regs., tit. 8, § 10700.)

Labor Code section 5002 states that:

“A copy of the release or compromise agreement signed by both parties shall forthwith be filed with the appeals board. Upon filing with and approval by the appeals board, it may, without notice, of its own motion or on the application of either party, enter its award based upon the release or compromise agreement.”

After considering the compromise and release in light of the entire record, we conclude that the settlement amount is adequate and that the agreement is in the best interest of applicant. We have considered that any potential right to death benefits is being released. In addition, we conclude that the attorneys’ fee requested is reasonable and should be allowed.

Therefore, we will rescind the Findings, Award and Order issued on February 26, 2020, and approve the Compromise and Release.

Finally, we commend the parties for engaging in good faith negotiations and successfully resolving this matter without the need for further litigation.

For the foregoing reasons,

IT IS ORDERED as the Decision After Reconsideration of the Workers’ Compensation Appeals Board that the Findings, Award and Order issued on February 26, 2020, be **RESCINDED**.

IT IS FURTHER ORDERED that the Compromise and Release filed March 17, 2021, be **APPROVED**.

AWARD IS MADE in favor of **FRED VANNETTER** against **SOMPO JAPAN INSURANCE COMPANY OF AMERICA**, as specified in the compromise and release.

WORKERS' COMPENSATION APPEALS BOARD

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ MARGUERITE SWEENEY, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

March 30, 2021

SERVICE MADE ON THE ABOVE DATE ON THE PERSONS LISTED BELOW AT THEIR ADDRESSES SHOWN ON THE CURRENT OFFICIAL ADDRESS RECORD.

**FRED VANNETTER
LEWIS, MARENSTEIN, WICKE, SHERWIN & LEE
GLENN L. SILVERII & ASSOCIATES**

DH/ara

I certify that I affixed the official seal of the Workers' Compensation Appeals Board to this original decision on this date. *abs*