

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

JEFFREY MOLINA, *Applicant*

vs.

FRED LOYA INSURANCE; HARTFORD FIRE INSURANCE COMPANY, *Defendants*

**Adjudication Numbers: ADJ7922408 (MF), ADJ8924319, ADJ8924320
Van Nuys 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.

Defendant, Hartford Fire Insurance Company (Hartford,) petitions for reconsideration of the Findings and Awards issued by the workers' compensation administrative law judge (WCJ) in these cases on May 15, 2020. In those decisions, the WCJ awarded applicant temporary and permanent disability compensation and further medical treatment against Hartford, which had previously stipulated to have provided workers' compensation insurance coverage to the employer Fred Loya Insurance, at the time of applicant's injuries.

Hartford contends in its petition for reconsideration that the WCJ erred in not relieving Hartford of its stipulation to insurance coverage and in not joining Zurich American Insurance Company (Zurich) as a party defendant.

Applicant filed an answer contending that Hartford's petition for reconsideration should be denied.

The WCJ issued a report in which she recommended that reconsideration be denied.

Subsequently, at our request applicant and Hartford participated in a commissioners' settlement conference. Zurich also participated in the commissioners' settlement conference but has never been joined as a party defendant in these cases. Applicant, Hartford and Zurich agreed

to resolve applicant's claims in these cases and Hartford's potential claim for contribution against Zurich by compromise and release.

The Compromise and Release, which was filed on May 26, 2021, provides that Hartford is to pay applicant \$120,000, less permanent disability indemnity previously paid of \$47,187.79, and less an attorneys' fee of \$18,000, leaving \$54,812.21 payable to applicant in a lump sum. Hartford agrees to adjust or litigate liens of record with jurisdiction reserved. In addition, Hartford and Zurich agree that the latter will pay Hartford \$30,000 in full satisfaction of any claim for reimbursement or contribution Hartford may have against Zurich.

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 and Awards issued on May 15, 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 and Awards issued in these cases on May 15, 2020, be **RESCINDED**.

IT IS FURTHER ORDERED that **ZURICH AMERICAN INSURANCE COMPANY** be **JOINED** herein as a party defendant.

IT IS FURTHER ORDERED that the Compromise and Release filed May 26, 2021, be **APPROVED**.

AWARD IS MADE in favor of **JEFFREY MOLINA** against **HARTFORD FIRE INSURANCE COMPANY** as specified in the Compromise and Release.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

/s/ DEIDRA E. LOWE, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

JUNE 2, 2021

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

**JEFFREY MOLINA
DENNIS HERSHEWE
TESTAN LAW
DAVID C. HENSLEY
MAVREDAKIS PHILLIPS CRANERT**

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