

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

**JAIME ESTRELA, *Applicant***

**vs.**

**THE PERMANENTE MEDICAL GROUP, Permissibly Self-Insured;  
ADMINISTERED BY ATHENS ADMINISTRATORS, *Defendants***

**Adjudication Numbers: ADJ12748629; ADJ15223054  
Santa Rosa District Office**

**OPINION AND DECISION  
AFTER RECONSIDERATION**

We previously granted reconsideration to further study the legal and factual issues raised by the Petition for Reconsideration filed by applicant. This is our opinion and decision after reconsideration.

Applicant seeks reconsideration of the October 18, 2022 Findings and Order (F&O) issued by the workers' compensation administrative law judge (WCJ), wherein the WCJ found that applicant's claim of cumulative injury in case number ADJ15223054 was settled by way of the Compromise and Release (C&R) approved by the WCJ on April 13, 2021.

Applicant contends the C&R only resolved the June 26, 2019 specific injury alleged in case number ADJ12748629, and not the June 25, 2018 to June 25, 2019 cumulative injury claim alleged in case number ADJ15223054. Applicant contends that she should be allowed to pursue the subsequent claim.

We received a Report and Recommendation on Petition for Reconsideration (Report) from the WCJ recommending the Petition be denied. We received an Answer from defendant.

We have considered the allegations of the Petition for Reconsideration and the Answer, and the contents of the Report. Based on our review of the record, and for the reasons discussed below, we will rescind the WCJ's F&O and substitute a new F&O, which finds that applicant's claim in case number ADJ15223054 is not duplicative of her claim in case number ADJ12748629, so that it was not resolved by the C&R, and return this matter to the WCJ for further proceedings.

## BACKGROUND

Applicant claimed injury to her nervous system, including stress/psyche system on June 26, 2019, while working as a nurse (ADJ12748629).

Applicant claimed cumulative injury from June 25, 2018 to June 25, 2019, to her nervous system, including psych, stress, and nervous system, unspecified while working as a nurse. (ADJ15223054).

The parties entered into a C&R signed by all parties on April 13, 2021, and the settlement was approved by the PWCJ on April 13, 2021, and issued on April 14, 2021, resolving case number ADJ12748629. The C&R's pertinent paragraphs referencing applicant's date of injury in case number ADJ12748629 are as follows:

Paragraph 1 of the C&R states:

IT IS CLAIMED THAT: 1. The injured employee, born xx-xx-xxx, alleges that while employed as a(n) Nurse, sustained injury arising out of and in the course of employment at the locations and during the dates listed below: (State with specificity the date(s) of injury(ies) and what part(s) of body, conditions or systems are being settled.) **ADJ12748629** Case Number 1 **Specific Injury 6/26/19 (Start Date: MM/DD/YYYY)** (If Specific Injury, use the start date as the specific date of injury) **Body Part 1: 840-Nervous Sys., Body Part 2: 841-Nerv. Sys., Body Part 3: 842- Nerv Sys. Body Part 4: Stress/Psyche.** The injury occurred at Santa Rosa, CA.

Paragraph 3 of the C&R states:

This agreement is limited to settlement of the body parts,["Body Part 1: 840-Nervous Sys., Body Part 2: 841-Nerv. Sys., Body Part 3: 842- Nerv Sys Body Part 4: Stress/Psyche.] conditions, or systems and for the dates of injury [6/26/19] set forth in Paragraph No. 1 and further explained in Paragraph No. 9 *despite any language to the contrary elsewhere in this document or any addendum.*

Paragraph 9 of the C&R states:

The parties wish to settle these matters to avoid the costs, hazards and delays of further litigation, and agree that a serious dispute exists as to the following issues (initial only those that apply). ONLY ISSUES INITIALED BY APPLICANT OR HIS/HER REPRESENTATIVE AND DEFENDANTS, REPRESENTATIVES ARE INCLUDED WITHIN THIS SETTLEMENT. [Applicant and Defendant initialed the following issues: earnings, temporary disability, jurisdiction, apportionment, injury AOE/COE, statute of limitations, future medical treatment, other MILEAGE, permanent disability, self-procured medical treatment, except as provided in paragraph 7. ]

COMMENTS: THIS [sic] PARTIES STIPULATE TO A THOMAS FINDING AS THERE IS A GOOD FAITH DISPUTE REGARDING COMPENSABILITY BASED ON THE REPORTING OF DR. KIMMEL. **THIS SETTLEMENT RESOLVES ALL INJURIES SUSTAINED TO PSYCHE/STRESS/NERVOUS SYSTEM BY THE APPLICANT REGARDLESS OF [sic] PLED AS A CT OR SPECIFIC INJURY THROUGH THE DATE OF THIS AGREEMENT.** APPLICANT IS NOT A QIW AS SHE HAS RETURNED TO WORK AT FULL DUTY. ALL PENALTIES AND INTEREST WAIVED, IF AWARD PAID BY DEF. WITHIN 30 DAYS OF APPROVAL. DEF TO PAY APPLICANT ATTORNEY \$400 TO RESOLVE DISPUTE OVER 5710 FEES.

Any accrued claims for Labor Code section 5814 penalties are included in this settlement unless expressly excluded (all emphasis added.)”

The WCJ signed the Order Approving Compromise & Release (OACR) on April 13, 2021, and it was issued on April 14, 2021, in case number ADJ12748629.

On July 26, 2022 the parties proceeded to trial and stipulated that:

- “1. Jamie Estrela, born xx-xx-xxx, while employed on June 26, 2019 (ADJ12748629), and for the period of June 25, 2018 through June 25, 2019 (ADJ15223054), as a licensed vocational nurse, occupational group 311, at Santa Rosa, California by the Permanente Medical Group, claims to have sustained injury arising out of and in the course of employment to her psyche.
2. At the time of injury, the employer was permissibly self-insured.
3. Case ADJ12748629 was settled by way of Compromise and Release, approved April 13, 2021.” (Minutes of Hearing and Summary of Evidence (MOH/SOE) 7/26/22 trial 10:26 a.m. – 10:55 a.m. at 2:7 – 2: 18.)

As relevant herein, the issues were as follows:

1. Why the compromise and release issued in case ADJ12748629 covers the events alleged in case ADJ15223054.
2. Estoppel.
3. Statute of Limitations.
4. Whether or not ADJ15223054 is a duplicate pleading.
5. Whether or not the Applicant is entitled to additional discovery in ADJ15223054, and, specifically, a new panel of qualified medical evaluators. (MOH/SOE , 7/26/2022 trial 10:26 a.m. – 10:55 a.m. at 2:24 – 2: 35. )

On October 18, 2022, the WCJ issued the following findings of fact(F&O):

1. Applicant Jaime Estrela, born xx-xx-xxxx, was employed by the Permanente Medical Group, permissibly self-insured on June 26, 2019 (ADJ12748629) and for the period June 25, 2018 through June 25, 2019 (ADJ15223054).

2. Case ADJ15223054 was settled by way of Compromise and Release signed by applicant and approved by the board on April 13, 2021.

Further, the WCJ ordered that applicant take nothing further with respect to her claim in case number ADJ15223054.

On November 14, 2022, applicant filed a Petition for Reconsideration of the F&O dated November 11, 2022.

On November 28, 2022, defendant filed an Answer.

## DISCUSSION

“The appeals board has continuing jurisdiction over all its orders, decisions, and awards made and entered under the provisions of [Division 4] . . . At any time, upon notice and after the opportunity to be heard is given to the parties in interest, the appeals board may rescind, alter, or amend any order, decision, or award, good cause appearing therefor.” (Lab. Code, § 5803<sup>1</sup>.)

We observe that contract principles apply to settlements of workers’ compensation disputes. The legal principles governing compromise and release agreements are the same as those governing other contracts. (*Burbank Studios v. Workers’ Co. Appeals Bd.* (1982) 134 Cal.App.3d 929, 935.) There can be no contract unless there is a meeting of the minds and the parties mutually agree. (Civ. Code, §§ 1550, 1565; *Sackett v. Starr* (1949) 95 Cal.App.2d 128; *Sieck v. Hall* (1934) 139 Cal.App.2d 279, 291.) Moreover, there is no contract unless the parties agree upon the same thing in the same sense. (Civ. Code, § 1580; *American Can Co. v. Agricultural Ins. Co.* (1909) 12 Cal.App. 133, 137.) For a compromise and release agreement to be effective, the necessary elements of a contract must exist, including an offer of settlement of a disputed claim by one of the parties and an acceptance by the other. (*Burbank Studios, supra*, at p. 935.) A contract must be so interpreted as to give effect to the mutual intention of the parties as it existed at the time of contracting, so far as the same is ascertainable and lawful. (Civ. Code, § 1636; *County of San Joaquin v. Workers’ Compensation Appeals Bd. (Sepulveda)* (2004) 117 Cal.App.4th 1180, 1184

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<sup>1</sup> All future statutory references are to the Labor Code, unless otherwise specified.

[69 Cal.Comp.Cases 193].) The plain language of a contract is the first step in determining the intent of the parties. (Civ. Code, §§ 1638, 1639.)

Statutory workers' compensation law provides that an industrial injury may be either specific (the result of one incident which causes disability and need for medical treatment) or cumulative (occurring as repetitive mentally or physically traumatic activities over a period of time the combined effect of which causes any disability or need for medical treatment), and that all questions of fact and law must be separately determined with respect to each injury. (Lab. Code, §§3208.1, 3208.2.) The date of injury for an industrial cumulative trauma injury is defined by section 5412 as follows: "The date of injury in cases of occupational diseases or cumulative injuries is that date upon which the employee first suffered disability therefrom and either knew, or in the exercise of reasonable diligence should have known, that such disability was caused by his present or prior employment." The date of injury for a specific injury is defined by section 5411 as follows: "The date of injury, except in cases of occupational disease or cumulative injury, is that date during the employment on which occurred the alleged incident or exposure, for which consequences of which compensation is claimed."

Applicant alleges she sustained injury to her nervous system including stress/psyche system on June 26, 2019. Thus, by definition her alleged injury, is a specific injury. Moreover, case number ADJ12748629 is the only case number listed in the C&R. In applicant's other claimed injury, she alleges she sustained a cumulative injury from June 25, 2018 to June 25, 2019, to her nervous system including psych, and stress, and it was assigned case number ADJ15223054.

There is no assigned case number for a claimed cumulative injury, the cumulative injury is not listed in the C&R nor is it described in the C&R. Thus, there is no basis for assuming that the parties intended to include the cumulative injury alleged in case number ADJ15223054 in the settlement of the specific injury alleged in case number ADJ12748629. Thus, applicant may proceed with her cumulative injury claim.

Accordingly, we rescind the F&O and substitute a new F&O, which finds that applicant's claimed cumulative injury is not a duplicate of the specific injury case that was settled by way of C&R, and return the matter to the WCJ for further proceedings.

For the foregoing reasons,

**IT IS ORDERED** as the decision after reconsideration, that the October 18, 2022 Findings and Order is **RESCINDED**, and the following is **SUBSTITUTED** in its place:

#### **FINDINGS OF FACT**

1. Applicant Jaime Estrela, born xx-xx-xxxx, while employed on June 26, 2019 as a nurse by the Permanente Medical Group, permissibly self-insured, claims to have sustained an injury to her psyche in case number ADJ12748629.

2. Case number ADJ12748629 was settled by way of a Compromise & Release (C&R) approved by the PWCJ on April 13, 2021 and issued on April 14, 2021.

3. Applicant Jaime Estrela, while employed by the Permanente Medical Group, permissibly self-insured, claims to have sustained a cumulative injury to her nervous system including psych, stress, and nervous system- unspecified during the period of June 25, 2018 through June 25, 2019 in case number ADJ15223054.

4. Case number ADJ15223054 is not a duplicate of case number ADJ12748629.

**ORDER**

**IT IS ORDERED**, that applicant may proceed with her claim in case number ADJ15223054.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ CRAIG SNELLINGS, COMMISSIONER**

**I CONCUR,**

**/s/ KATHERINE A. ZALEWSKI, CHAIR**

**/s/ JOSEPH V. CAPURRO, COMMISSIONER**



**DATED AND FILED AT SAN FRANCISCO, CALIFORNIA**

**September 11, 2023**

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

**JAIME ESTRELA  
SHATFORD LAW  
LAUGHLIN, FALBO, LEVY & MORESI**

**DM/oo**

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