

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

FERESHTEH ALAEINIA, *Applicant*

vs.

MACY'S, INC., PERMISSIBLY SELF-INSURED, *Defendant*

**Adjudication Number: ADJ9508272
San Jose 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, Macy's, Inc., petitioned for reconsideration of the Findings and Award issued by the workers' compensation administrative law judge (WCJ) in this matter on August 24, 2020. In that decision, the WCJ found that applicant, Fereshteh Alaeinia, sustained injury to her psyche arising out of and in the course of her employment as a sales associate by defendant, resulting in two years of temporary disability through June 28, 2015, and thereafter, permanent total disability.

Defendant contends in its petition for reconsideration that the WCJ erred in finding that applicant's injury caused temporary disability and permanent total disability.

Applicant filed an answer contending that the petition for reconsideration 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 this matter by Compromise and Release.

The Compromise and Release was filed on October 18, 2021. It provides for a settlement of \$300,000, less \$63,669 to fund a Medicare set aside trust to be administered by applicant and less an attorney's fee of \$45,000, leaving a balance of \$191,331 payable to applicant in a lump sum.

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 Award issued on August 24, 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 Award issued in this matter on August 24, 2020, be **RESCINDED**.

IT IS FURTHER ORDERED that the Revised Compromise and Release filed October 18, 2021, be **APPROVED**.

AWARD IS MADE in favor of **FERESHTEH ALAEINIA** against **MACY’S, INC.,** permissibly self-insured, as specified in the Compromise and Release.

WORKERS’ COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ DEIDRA E. LOWE, COMMISSIONER

/s/ MARGUERITE SWEENEY, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

November 8, 2021

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

**FERESHTEH ALAEINIA
LAW OFFICE OF MARC S. WIESNER
FLOYD, SKEREN, MANUKIAN, LANGEVIN**

DH/ara

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