

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

JOSE SANTOS GARCIA, *Applicant*

vs.

**RAINBOW VALLEY NURSERY COMPANY, INC.;
JAIME G. MEJIA; DAVID J. MEJIA, *Defendants***

**Adjudication Number: ADJ10618630
Anaheim District Office**

**OPINION AND ORDER
GRANTING PETITION FOR RECONSIDERATION
AND DECISION AFTER RECONSIDERATION**

We have considered the allegations of the Petition for Reconsideration and the contents of the report of the workers' compensation administrative law judge (WCJ) with respect thereto. Based on our review of the record, and for the reasons stated in the WCJ's report, which we adopt and incorporate, we will grant reconsideration, rescind the WCJ's February 16, 2022 Findings and Award, substitute it with new Findings of Fact, as provided below, and return this matter to the trial level for further proceedings as recommended in the report and as determined by the WCJ and for reissuance of the award.

For the foregoing reasons,

IT IS ORDERED that reconsideration of the February 16, 2022 Findings and Award is **GRANTED**.

IT IS FURTHER ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the February 16, 2022 Findings and Award is **RESCINDED** and **SUBSTITUTED** with new Findings of Fact, as provided below, and that this matter is **RETURNED** to the trial level for further proceedings and decision by the WCJ consistent with this opinion.

FINDINGS OF FACT

1. Jose Santos Garcia, while employed on April 9, 2014, as a landscape gardener/tree pruner, occupational group number 491, by Rainbow Valley Nursery Company, Inc./Jaime G. Mejia, sustained injury arising out of and occurring in the course of employment (AOE/COE) to the back, neck, thoracic spine, left shoulder, left elbow, left forearm, and left knee. The issue of whether David J. Mejia is a shareholder of Rainbow Valley Nursery Company, Inc., is deferred.
2. At the time of injury, the employers were uninsured.
3. No attorney fees have been paid and no attorney fee arrangements have been made.
4. At the time of injury, the employee's wages were \$470.00 per week based upon the testimony of owner/employer, Jaime Mejia.
5. The injury herein caused temporary total disability for the period of June 6, 2014 through June 6, 2016, at the weekly rate of \$313.34.
6. The injury herein caused permanent partial disability of 31% after apportionment, payable at the weekly rate of \$290.00.
7. Applicant is in need of further medical treatment.
8. Applicant's attorney is entitled to 15% of the permanent partial disability as reasonable attorney fees, to be commuted from the end of the award, if necessary.
9. The report of agreed medical examiner (AME) Emile Wakim, M.D., constitutes substantial medical evidence upon which the award is based.

10. Liens are deferred.

WORKERS' COMPENSATION APPEALS BOARD

/s/ DEIDRA E. LOWE, COMMISSIONER

I CONCUR,

/s/ CRAIG SNELLINGS, COMMISSIONER

ANNE SCHMITZ, DEPUTY COMMISSIONER
CONCURRING NOT SIGNING



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

MAY 10, 2022

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

**DENNIS R. FUSI LAW OFFICES
JOSE SANTOS GARCIA
OFFICE OF THE DIRECTOR – LEGAL UNIT
SACKS & ZOLONZ**

PAG/00

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

REPORT AND RECOMMENDATION
ON PETITION FOR RECONSIDERATION

I
INTRODUCTION

Identity of Petitioner:	Defendants Rainbow Valley Nursery Company Inc.; Jaime G. Mejia; David J. Mejia
Timeliness:	The petition was timely filed on March 11, 2022
Verification:	The petition was verified
Date of Finding & Order	February 16, 2022
Hearing Scheduled	None
Petitioner's Contention	Petitioner contends the WCJ findings were not supported by the facts and the WCJ acted in excess of his powers by finding that David J. Mejia was a shareholder in Rainbow Valley Nursery Company, Inc.

II
FACTS

- 1) Jose Santos Garcia, born [], while employed on April 9, 2014, as a landscape gardener/tree pruner, Occupational Group 491, by Rainbow Valley Nursery Company, Inc./ Jaime G. Mejia/ David J. Mejia, sustained injury arising out of and in the course of employment to the back, neck, thoracic spine left shoulder, left elbow, left forearm, and left knee.
- 2) At the time of injury, the employers were uninsured
- 3) No attorney fees have been paid and no attorney fee arrangements have been made.
- 4) At the time of injury, the employee's wages were \$470.00 per week based upon the testimony of the owner/employer; Jaime Mejia.
- 5) The Applicant is entitled to temporarily totally disability for the period of time June 6, 2014 through. June 6, 2016 at a weekly rate of\$ 313.34.
- 6) The Applicant sustained Permanent Partial Disability in the amount of 31 % after apportionment payable at a weekly rate of \$290.00.
- 7) The Applicant is in need of further medical treatment.

- 8) Applicant's Attorney is entitled to 15% of the Permanent Partial Disability as reasonable attorney fees; to be commuted from the end of the Award if necessary.
- 9) The report of Agreed Medical Examiner Emile Wakim M.D. constitutes substantial medical evidence upon which to base an Award.
- 10) Liens are deferred.

III **DISCUSSION**

Petitioner is correct in that there was testimony by David J. Mejia in which he stated he did not own any stock in the Nursery and testimony by his father Jaime G. Mejia in which Jaime Mejia testified that he believed his son was a shareholder. No further inquiry was made by the Court on this issue. Additional discovery should be allowed on this issue. Since this was the only issue from which Petitioner seeks relief, the undersigned asks that the matter be returned to the Trial level for further inquiry on this issue.

IV **RECOMMENDATION**

Based upon the foregoing, the undersigned recommends that Reconsideration be **GRANTED** and the case be remanded to the Trial Court for further inquiry into the issue of shareholder status for Defendant David J. Mejia.

DATE: 03/22/2022

John Cyprien
WORKERS' COMPENSATION JUDGE