

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

**CARLOS OYOLA, *Applicant***

**vs.**

**SLAKEY BROTHERS, INC., CYPRESS INSURANCE COMPANY,  
Administered by BERKSHIRE HATHAWAY HOMESTATE COMPANIES, *Defendants***

**Adjudication Number: ADJ10941172  
Oakland 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, Carlos Oyola, petitioned for reconsideration of the Findings and Award issued by the workers' compensation administrative law judge (WCJ) in this matter on January 15, 2021. In that decision, the WCJ found that applicant's injury to his lumbar spine and right shoulder and consisting of a hernia arising out of and in the course of his employment as a truck driver on October 29, 2014, by defendant Slakey Brothers, Inc., then insured for workers' compensation liability by defendant, Cypress Insurance Company, caused need of further medical treatment and permanent partial disability of 64%.

Applicant contends in his petition for reconsideration that the WCJ erred not finding greater permanent partial disability and in precluding applicant from obtaining and offering the opinion of a vocational rehabilitation expert.

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

The WCJ issued a report in which he recommended that the petition for reconsideration be denied.

Subsequently, at our request the parties participated in a commissioners' settlement conference and agreed to resolve this matter by partial Compromise and Release settling all benefits except applicant's right to further medical treatment.

The Compromise and Release was filed on March 25, 2022. The amount of the settlement is \$82,113.71, less an attorneys' fee of \$12,000. The Compromise and Release also provides that applicant's right to further medical treatment to cure or relieve from the effects of the injury is not being settled.

## 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. We also conclude that the attorneys' fee requested is reasonable and should be allowed.

Therefore, we will (1) rescind the Findings and Award issued by WCJ on January 15, 2021, (2) approve the Compromise and Release and (3) award further medical treatment.

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 on January 15, 2021, be **RESCINDED**.

**IT IS FURTHER ORDERED** that the Compromise and Release filed March 25, 2022, be **APPROVED**.

**AWARD IS MADE** in favor of **CARLOS OYOLA** against **CYPRESS INSURANCE COMPANY** of further medical treatment necessary to cure or relieve from the effects of the injury and of benefits specified in the Compromise and Release.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ CRAIG SNELLINGS, COMMISSIONER**

**I CONCUR,**

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

**/s/ KATHERINE WILLIAMS DODD, COMMISSIONER**



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

**MARCH 30, 2022**

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

**BOXER & GERSON  
CARLOS OYOLA  
GILSON DAUB**

**DH/ara**

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