

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

JOE HERNANDEZ, *Applicant*

vs.

**STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION, legally uninsured,
administered by STATE COMPENSATION INSURANCE FUND, *Defendants***

**Adjudication Numbers: ADJ9823497 (MF), ADJ7667324, ADJ10495068
Van Nuys District Office**

**OPINION AND DECISION
AFTER RECONSIDERATION**

Defendant, State of California, Department of Transportation, petitions for reconsideration of the Findings and Awards issued by the workers' compensation administrative law judge (WCJ) in this matter on September 29, 2022. In that decision, the WCJ found that applicant, Joe Hernandez's admitted industrial injuries to multiple parts of his body during a cumulative period ending February 10, 2014 (ADJ9823497) and on May 26, 2016 (ADJ10495068) caused permanent partial disability of 85%. The WCJ also found that the industrial injury on February 18, 2009 (ADJ7667324) caused permanent partial disability of 14%.

Defendant filed a petition for reconsideration in all three cases and contends principally that the WCJ erred in finding that the February 10, 2014 and May 26, 2016 injuries together caused permanent partial disability of 85%.

We granted reconsideration to further study the factual and legal issues presented.¹

Subsequently, the parties participated in a commissioners' settlement conference at our request.

On July 20, 2023, the parties filed a fully executed Compromise and Release in the cases that were the subject of defendant's petition for reconsideration as well as three prior cases that

¹ Commissioner Marguerite Sweeney signed the Opinion and Order Granting Petition for Reconsideration dated November 30, 2022. Commissioner Sweeney is no longer a member of the Appeals Board. Accordingly, a new panel member has been substituted in her place.

were not the subject of the petition for reconsideration, ADJ4647832, ADJ4620591 and ADJ9823496.

In order to expedite review and approval of the Compromise and Release, we will rescind the September 29, 2022 Findings and Awards and remand this matter to the WCJ to consider the Compromise and Release. The WCJ may conduct such further proceedings as he deems appropriate.

Our decision should not be construed as a ruling on the merits of the petition for reconsideration. If the WCJ does not approve the settlement, he can issue an order reinstating her decision and any aggrieved party may timely seek reconsideration from the reinstated decision.

Finally, we commend the parties for successfully resolving this matter without the need of 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 on September 29, 2022 be **RESCINDED**.

IT IS FURTHER ORDERED that this matter be **REMANDED** to the workers' compensation administrative law judge for further proceedings consistent with this opinion.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

/s/ JOSÉ H. RAZO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

August 4, 2023

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

**JOE HERNANDEZ
LAW OFFICES OF ROSE, KLEIN & MARIAS
STATE COMPENSATION INSURANCE FUND**

DH/ara

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