

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

ROBERT AIELLO, *Applicant*

vs.

**TEAMSTERS LOCAL NO. 70; CALIFORNIA INSURANCE GUARANTEE
ASSOCIATION for ULLICO CASUALTY COMPANY in liquidation, by its servicing
facility INTERCARE INSURANCE SERVICES; STATE COMPENSATION
INSURANCE FUND, *Defendants***

**Adjudication Numbers: ADJ7663603, ADJ10104601
Oakland District Office**

**OPINION AND DECISION
AFTER RECONSIDERATION**

Applicant, Robert Aiello, petitions for reconsideration of the Joint Findings, Award and Orders issued by the workers' compensation administrative law judge (WCJ) in this matter on September 10, 2021. In that decision, the WCJ found that applicant, while employed as a business manager by Teamsters Local Union No. 70, sustained injuries arising out of and in the course of employment on April 30, 2005, to his cervical spine, thoracic spine, lumbar spine, and psyche, resulting in permanent partial disability of 9% to the cervical spine, 9% to the thoracic spine and 2% to the psyche (case ADJ7663603) and during a cumulative period ending May 1, 2014, to his lumbar spine, but not his psyche (case ADJ10104601.) Defendant California Insurance Guarantee Association assumed liability of the employer for the first injury and defendant State Compensation Insurance Fund insured the employer at the time of the latter injury.

Applicant contends that the WCJ erred in not awarding compensation consistent with the opinions of Dr. Pang and Dr. Ghannam.

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

¹ Commissioner Deidra E. Lowe signed the Opinion and Order Granting Petition for Reconsideration dated November 10, 2021. Commissioner Lowe is no longer a member of the Appeals Board. Accordingly, a new panel member has been substituted in her place.

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

On August 31, 2023, the parties filed a fully executed Compromise and Release.

In order to expedite review and approval of the Compromise and Release, we will rescind the September 10, 2021 Joint Findings, Award and Orders and remand this matter to the WCJ to consider the Compromise and Release. The WCJ may conduct such further proceedings as she 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, she 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 Joint Findings, Award and Orders issued on September 10, 2021 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/ CRAIG SNELLINGS, COMMISSIONER

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

September 8, 2023

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

**ROBERT AIELLO
LAUGHLIN FALBO LEVY & MORESI
LIRA LAW
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