

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

LUIS AMEZCUA BARAJAS, *Applicant*

vs.

PACIFIC DISTRIBUTING, INC.;
STATE COMPENSATION INSURANCE FUND, *Defendants*

**Adjudication Number: ADJ9930606
Stockton District Office**

**OPINION AND ORDER
DENYING PETITION FOR
RECONSIDERATION**

We have considered the allegations of the Petition for Reconsideration, and the contents of the Report and Opinion on Decision 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 and opinion, which are both adopted and incorporated herein, we will deny reconsideration.

The plain language of a contract is the first step in determining the intent of the parties. (Civ. Code, §§ 1638, 1639.) If a contract is the complete and final embodiment of the parties' agreement, then extrinsic evidence cannot be used to add to or vary its terms, i.e., it cannot be used to contradict express contractual terms. (Civ. Code, § 1625; see also *Parsons v. Bristol Dev. Co.* (1965) 62 Cal.2d 861.)

For the foregoing reasons,

IT IS ORDERED that the Petition for Reconsideration is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ MARGUERITE SWEENEY, COMMISSIONER

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

June 28, 2021

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

**LUIS BARAJAS
CENTRAL VALLEY INJURED WORKER LEGAL CLINIC
OCCUPATIONAL INJURY LAW CENTER
STATE COMPENSATION INSURANCE FUND**

PAG/pc

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

REPORT AND RECOMMENDATION ON
PETITION FOR RECONSIDERATION

I. INTRODUCTION

The matter came on the trial calendar to have the issue of additional attorneys' fees to the prior applicant's counsel addressed. The attorneys entered into a Stipulation and Award and/or Order after the matter came to an interim resolution by way of Stipulations with Request for Award. The question presented was whether the language, "in full satisfaction of attorney fee lien", means that the prior attorneys' entitlement to a fee was resolved. The Findings of Fact found no additional fee was payable. Prior counsel, Occupational Injury Law Center ("OILC") disagreed, filed a timely verified Petition for Reconsideration ("Petition"). The applicant's current attorney, Central Valley Injured Workers' Legal Clinic ("CVIWLC") filed an answer. It is recommended that the Petition be denied.

II. FACTS ON DISPUTED ISSUES

This matter resolved by way of Stipulations with Request for Award after the applicant changed attorneys of record from OILC to CVIWLC. The prior attorney resolved his entitlement to fees by way of a Stipulation and Award and/or Order that included the language, "in full satisfaction of attorney fee lien". After CVIWLC filed a petition to reopen, the matter later resolved by way of Compromise and Release. The matter came on the trial calendar to resolve the issue of whether the prior counsel is entitled to a further fee out of the later settlement by way of Compromise and Release.

III. DISCUSSION

The plain meaning of the language in the Stipulation and Award and/or Order is used: Thus, prior counsel has resolved his prior entitlement to attorneys' fees. There is no savings language, nor was there an attempt to strike the language. Thus, there can be no further award of attorneys' fees. Further, a reasonable attorneys' fee is allowed based upon work performed. Prior counsel did not perform any further work on the file after he was no longer counsel for the applicant.

IV. RECOMMENDATION

For the reasons given above, it is respectfully recommended that the Petition for Reconsideration filed by OILC be denied.

Deborah A. Whitcomb
Workers' Compensation Judge

OPINION ON DECISION

Lien Claim of Prior Attorney. Occupational Injury Law Center

After reviewing the parties' post trial briefs, and the documents identified for judicial notice, there can be no further award of attorney's fees. While the prior applicant's counsel, Occupational Injury Law Center, is correct, after a Stipulations with Request for Award where an applicant then dismisses their attorney and later negotiates a compromise and release, the issue of an attorney fee due to the prior counsel is always an issue. The question to be answered, should the aforementioned issue go to trial, is the value of the work done, if any, between the Award and the dismissal of attorney. If the instant matter presented with the aforementioned fact pattern, there might be a different outcome. However, such was not the case, the matter resolved by way of Stipulations with Request for Award when the file was with the subsequent attorney, Central Valley Injured Workers' Legal Clinic. Prior applicant's counsel received an attorney fee for work done prior to being dismissed as counsel of record by way of the Stipulation and Award and/or Order dated 4 April 2018. Thus, prior counsel, Occupational Injury Law Center, resolved the fee issue related to work done while having the file. Even without the language, "in full satisfaction of attorney fee lien", the attorney fee issue would have been resolved. Here the settlement document between the attorneys' included the aforementioned language bringing the matter to a close. The plain meaning of the language is given, which means that any further demand for attorney fees is resolved; the document is signed by the prior counsel who had the opportunity to make changes or not sign the agreement, and there are no ambiguities in the language of the document. Thus, there is no basis upon which to award a further fee.

Deborah A. Whitcomb
Workers' Compensation Judge