

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

**ARMANDO GAETA, *Applicant***

**vs.**

**CASPER'S COMPANY; ZURICH AMERICAN INSURANCE COMPANY, *Defendants***

**Adjudication Number: ADJ10239329  
Van Nuys 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.**

Defendant, Zurich American Insurance Company, petitions for reconsideration of the Findings of Fact and Orders issued by the workers' compensation administrative law judge (WCJ) in this matter on September 17, 2020. In that decision, the WCJ found that applicant, Armando Gaeta, is in need of ongoing in-patient supportive care to cure and relieve him from the effects of his industrial injury.

Defendant contends in its petition for reconsideration that the WCJ erred in finding that applicant is entitled in-patient supportive care.

Applicant filed an answer to the petition for reconsideration, contending that it should be denied.

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

Subsequently, at our request the parties participated in a commissioners' settlement conference and agreed to resolve applicant's claims by compromise and release. Applicant's adult daughter, Andrea Gaeta, was appointed Guardian ad Litem and Trustee (GAL) on May 14, 2021. The GAL signed the Compromise and Release, in behalf of applicant. The Compromise and Release was filed on May 24, 2021.

The Compromise and Release provides for a settlement amount of \$5,150,000, less \$553,453 to fund a Medicare set aside trust, less \$1,053,454 to fund an annuity for applicant in lieu of permanent total disability indemnity payments, less \$2,778,093 to fund an annuity to pay for applicant's supervised care and non-Medicare covered medical expense and less an attorneys' fee of \$615,000, leaving a balance of \$150,000 payable to applicant in a lump sum.

Defendant agrees to pay, adjust or litigate liens of record.

## 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. In addition, we conclude that the attorneys' fee requested is reasonable and should be allowed.

Therefore, we will rescind the Findings of Fact and Orders issued on September 17, 2020, and approve the Compromise and Release.

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 of Fact and Orders issued on September 17, 2020, be **RESCINDED**.

**IT IS FURTHER ORDERED** that the Compromise and Release filed May 24, 2021, be **APPROVED**.

**AWARD IS MADE** in favor of **ARMANDO GAETA** against **ZURICH AMERICAN INSURANCE COMPANY**, as specified in the Compromise and Release.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ DEIDRA E. LOWE, COMMISSIONER**

**I CONCUR,**

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

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



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

**May 26, 2021**

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

**ARMANDO GAETA  
ODJAGHIAN LAW GROUP  
LAW OFFICE OF TRACEY LAZARUS**

**DH/ara**

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