

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

ALZARIO MORENO, *Applicant*

vs.

**NOWELL STEEL AND SUPPLY COMPANY, INC.; ZURICH AMERICAN
INSURANCE GROUP, C/O AMERICAN CLAIMS MANAGEMENT; INSURANCE
COMPANY OF THE WEST, *Defendants***

**Adjudication Numbers: ADJ8928136 (MF); ADJ14040124
Long Beach District Office**

**OPINION AND DECISION
AFTER RECONSIDERATION**

Defendants, Zurich American Insurance Company (Zurich) and Insurance Company of the West (ICW) each petition for reconsideration of the Findings and Award and Order issued by the workers' compensation administrative law judge (WCJ) in this matter on April 23, 2021. In that decision, the WCJ found that applicant sustained cumulative injuries to his cervical spine, shoulders, elbows, wrists, forearms, lumbar spine, knees and pulmonary system and consisting of GERD, constipation and diabetes arising out of and in the course of his employment by Nowell Steel and Supply Company, Inc., as a material handler during periods ending August 16, 2012, and April 26, 2013. The WCJ also found that applicant's injuries caused temporary disability for the periods August 16, 2012, through April 4, 2013, and June 13, 2013, through April 16, 2014, permanent partial disability of 79% and need of further medical treatment. The WCJ made a joint award of benefits against both Zurich and ICW and ordered Zurich to pay and administer benefits.

ICW and Zurich each contend in their petitions for reconsideration that the WCJ erred in determining the issues of temporary and permanent disability and in making a joint award of benefits.

The WCJ issued a report in which she recommended that both petitions be denied.

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

Subsequently, the parties participated in a commissioners' settlement conference at our request. On December 6, 2021, 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 April 23, 2021 Findings and Award and Order, 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 petitions 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 complex 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 Award and Order issued in this matter on April 23, 2021, be **RESCINDED**, and that this matter be **REMANDED** to the workers' compensation administrative law judge to consider the Compromise and Release and for such further proceedings as she deems appropriate.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ DEIDRA E. LOWE, COMMISSIONER

/s/ KATHERINE A. ZALEWSKI, CHAIR



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

December 13, 2021

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

**ALZARIO MORENO (2)
LAW OFFICES OF SCOTT D. PERRY
DIETZ, GILMOR & CHAZEN, A.P.C.
MCNAMARA & DRASS, LLP
LAW OFFICES OF PAUL J. LEE**

DH/ara

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