

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

CALEB JONES, *Applicant*

vs.

**COUNTY OF MARIN, Permissibly Self-Insured; administered by ATHENS
ADMINISTRATORS, *Defendants***

**Adjudication Number: ADJ9571390
San Francisco District Office**

**OPINION AND DECISION
AFTER RECONSIDERATION**

We previously granted reconsideration in order to allow us time to further study the factual and legal issues in this case.¹ We now issue our Opinion and Decision After Reconsideration.

I.

Applicant, Caleb Jones, petitioned for reconsideration of the Findings of Fact and Award issued by the workers' compensation administrative law judge (WCJ) in this matter on July 6, 2021. In that decision, the WCJ found that the applicant sustained injury arising out of and in the course of employment to the bilateral lower extremities, right upper extremity, neck, lumbar spine and psyche which caused permanent disability of 44%.

Applicant contends in his petition for reconsideration that the WCJ erred in failing to rule on applicant's motion to exclude the surveillance video which was unable to be authenticated at trial, and which was viewed by the physicians upon whose medical reports the WCJ relied in forming her finding of applicant's level of permanent disability.

We received an Answer from applicant.

The WCJ issued a Report and Recommendation on Petition for Reconsideration (Report) recommending that the Petition be denied or dismissed as untimely.

Subsequently, at our request, the parties participated in a commissioners' settlement conference with the WCAB Workers' Compensation Judge acting as the mediator. Thereafter, the parties agreed to resolve this matter by compromise and release.

¹ Commissioner Lowe was previously on the panel in this matter and is no longer a member of the Appeals Board. Another panelist has been assigned in her place.

The executed Compromise and Release was filed on March 13, 2023. The amount of the settlement is \$35,000 new money to resolve all issues, including the defendant's petition for third party credit, applicant's petition for serious and willful misconduct, as well as resolution of the only lien of record, one for reimbursement of disability benefits paid by Praxis Disability as represented by Voya.

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 the 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 as well as the recommendations of our Workers’ Compensation Judge, 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. We also conclude that the attorneys’ fee requested is reasonable and should be allowed.

Therefore, we will rescind the Findings of Fact and Award issued by the WCJ on July 6, 2021, 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 Award issued on July 6, 2021 be **RESCINDED**.

IT IS FURTHER ORDERED that the Compromise and Release filed March 13, 2023, is **APPROVED**.

AWARD IS MADE in favor of **CALEB JONES**, against the **COUNTY OF MARIN**, **Permissibly Self-Insured, administered by ATHENS ADMINISTRATORS**, as specified in the Compromise and Release.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER

/s/ JOSÉ H. RAZO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

MARCH 28, 2023

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

**CALEB JONES
DELFINO, GREEN & GREEN
RTGR LAW LLP**

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