WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

DIANE CLAY, *Applicant*

vs.

COUNTY OF LOS ANGELES, permissibly self-insured, administered by SEDGWICK. *Defendants*

Adjudication Numbers: ADJ13069105, ADJ6995603, ADJ7597612, ADJ9551033, ADJ10240855

Los Angeles District Office

OPINION AND DECISION AFTER RECONSIDERATION

We previously granted reconsideration in order to further study the factual and legal issues. This is our Opinion and Decision After Reconsideration.

Defendant seeks reconsideration of the "Joint Findings and Order" (F&O) issued on November 1, 2023, by the workers' compensation administrative law judge (WCJ). The WCJ found, in pertinent part, that good cause existed to vacate the stipulations approved in ADJ7597612 and ADJ10240855. The WCJ further found good cause to rescind the Orders Approving Compromise and Release (OACRs) issued in ADJ9551033 and ADJ6995603.

Defendant argues that the WCJ erred because applicant failed to prove good cause to set aside the awards and OACRs issued in her cases. Defendant further argues that the WCJ's erred in awarding credit and instead applicant should be ordered to reimburse defendant.

We have not received an answer from applicant. The WCJ filed a Report and Recommendation on Petition for Reconsideration (Report) recommending that we grant reconsideration to amend the F&O to defer the issue of credit.

We have considered the allegations of the Petition for Reconsideration, and the contents of the WCJ's Report. Based on our review of the record and for the reasons stated in the WCJ's Report, which we adopt and incorporate, except as to the section titled "Discussion of Credit/Reimbursement Issues re Sums Paid by Petitioner" beginning on page 16 and continuing

through the first sentence on page 20, as our Decision After Reconsideration we will rescind the WCJ's November 1, 2023 F&O, and substitute a new F&O, which defers the issue of credit.

"The appeals board has continuing jurisdiction over all its orders, decisions, and awards made and entered under the provisions of [Division 4] . . . At any time, upon notice and after the opportunity to be heard is given to the parties in interest, the appeals board may rescind, alter, or amend any order, decision or award, good cause appearing therefor." (Lab. Code, § 5803.)

Based upon the WCJ's discussion in the Report, good cause existed to rescind the awards and OACRs in these cases. We further agree with the WCJ that the issue of credit is more appropriately deferred at this time, and we will amend the F&O accordingly

Prior to proceeding with further discovery, we encourage the parties and the WCJ to have a hearing with an Information and Assistance officer available to assist applicant, to determine whether settlement is possible on the current record.

For the foregoing reasons,

IT IS ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the Joint Findings and Order issued on November 1, 2023 is **RESCINDED** with the following **SUBSTITUTED** in their place:

JOINT FINDINGS OF FACT

1. There is good cause to vacate and rescind each of the following orders and/or awards in their entirety:
    a) Stipulated award for 32% permanent disability (PD) in ADJ7597612.
    b) Stipulated award for 0% PD in ADJ10240855.
    c) Joint order approving compromise and release for $5,000.00 in ADJ9551033 and ADJ6995603.
2. The issue of credit is deferred.

JOINT ORDER

IT IS ORDERED AS FOLLOWS:

1. The following awards and/or orders are rescinded in their entirety:
   a. Stipulated award for 32% permanent disability (PD) in ADJ7597612.
   b. Stipulated award for 0% PD in ADJ10240855.
   c. Joint order approving compromise and release for $5,000.00 in ADJ9551033 and ADJ6995603.
2. The issue of credit is deferred.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ PATRICIA A. GARCIA, DEPUTY COMMISSIONER

/s/ KATHERINE A. ZALEWSKI, CHAIR

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

April 15, 2024

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

DIANE CLAY, IN PRO PER
ROBINSON DI LANDO, APLC

EDL/mc

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

REPORT AND RECOMMENDATION ON DEFENDANT'S 11/23/22 PETITION FOR REMOVAL/RECONSIDERATION

I. INTRODUCTION

Defendant County of Los Angeles has brought the above petition in connection with multiple specific and cumulative trauma claims brought against it on dates set forth above. The applicant, now in pro per in all of the above cases, is an intermediate typist clerk born in 1961.

I note at the outset that one of the five cases listed in defendant's petition appears to be erroneously listed. That is case No. ADJ13069105, a CT case with an ending date of 3/14/19 which the applicant filed on 3/13/20, after the events at issue in the other four cases took place.

The other four cases arose over an issue of setting aside settlements and as best I can tell ADJ13069105 is currently unsettled and unresolved. I will be recommending below that defendant's petition be dismissed solely as to ADJ13069105.

As to the other four cases captioned above, defendant's petition follows my 11/1/22 findings and order, which issued after trial of applicant's claim that her "package" settlement of all four of these cases on 5/23/19 should be set aside. These settlements consisted of 1) a stipulated award for 32% permanent disability (PD) in ADJ7597612; 2) a stipulated award for 0% PD in ADJ10240855 and 3) joint order approving compromise and release for $5,000.00 in ADJ9551033 and ADJ6995603 should set aside in its entirety. Following two days of trial, I found good cause to set aside all three settlements in their entirety.

Inasmuch as the applicant had previously deposited the sum of $32,597.50 in payment of the above settlements, I also set forth detailed provisions designed to facilitate any credit rights or collection efforts COLA might have to undertake to recover these sums, if, ultimately, they proved to be owing after trial or re-settlement of the four cases at issue herein.

Defendant COLA asserts substantially as follows in their timely, verified and properly served "reconsideration/removal" petition:

1. It was error to set aside the settlements because:

a) The judge unfairly considered the potential dollar value of the cases after stating that he would only review the medical reports placed in evidence in connection with evaluating the applicant's mental state at the time of settlement;

b) The trial judge erroneously and improperly determined that the settlements were inadequate.

c) Rescission of the settlements will require new medical reports and, in some specialties, new forensic experts.

2. The provisions designed to facilitate reimbursement by the county of any overpaid sums were erroneous because:

a) The judge should have instead issued an order for full reimbursement of the settlement sums it paid;

b) Civil Codes section 1689 requires full reimbursement of the settlement sums before the settlements can be rescinded;

c) There is an inadequate record to support the judge's findings or inferences about the applicant's financial ability to repay the settlement;

d) The applicant's attorneys who earned fees from the settlements should have been ordered to return the fees as well.

Due to my own COVID-19 infection, I was out ill on "COVID leave" continuously from 11/23/22 (the same day the reconsideration petition was filed) until 12/6/22, when I first saw defendant's petition. In light of this, the Appeals Board kindly granted me an extension to 12/20/22 to prepare this report.

II.
FACTS

Taken cumulatively, these are a complex series of cases that have generated a total of at least 15 AME reports in the field of dentistry, internal medicine, orthopedics[,] and psychiatry.

Putting aside the erroneously listed additional case, ADJ13069105, the within petition arises entirely from events that took place on or about 5/23/19, when joint trial of the four cases actually at issue herein was set before me. The applicant, at the time, was represented by two different law firms, the Nielsen firm in ADJ10240855 (involving a specific right foot injury on

5/6/15) and by the Law Offices of Ramin Younessi in the other three cases. These other three cases consisted of two specific claims of injury to the psyche and other body parts, and a cumulative trauma claim to the psyche and multiple other psychiatric, internal, orthopedic[,] and other body parts or body systems.

After a series of various discussions on 5/23/19, the parties, on that same date, presented the judge with a "package" signed off by the applicant to settle two of these cases by separate stipulations with request for award and two by a joint compromise and release agreement. After duly reviewing these documents in conjunction with the Board file, I approved each of these settlements that same date, 5/23/19.

On 5/31/19 the applicant filed two separate reconsideration petitions seeking, collectively, to set aside the approvals of the settlement in all four cases. By Opinion and Orders Dismissing Petitions for Reconsideration dated 7/26/19, the Board directed that a trial-level hearing be held to determine if there was good cause to set aside the settlements.

Various proceedings followed, having mainly to do with several attorneys representing the applicant being relieved of their service, at times over the applicant's strenuous objection.

In any event, trial subsequently went forward on the issue of good cause to set aside the four settlements that were entered into on 5/23/19. The applicant, who was in pro per status at this trial and remains in pro per status, was the sole testifying witness. (I did not permit a witness sought by the defendant, former applicant's attorney Jeffrey Pineda, to testify because he was never listed as a witness in the parties' joint pretrial conference statement.)

In my 11/1/22 Findings and Order, as noted above, I found good cause to set aside settlements in all four of the cases that had been presented to me as a unified "package" on 5/23/19. Accordingly, I ordered that the two stipulated awards in ADJ7597612 and ADJ10240855 each be rescinded, as well as the joint OACR in ADJ9551033 and ADJ6995603.

Since defendant does not contest the bulk of the reasons that I gave for setting these settlement[s] aside, I do not believe this requires an extended narrative in the course of this report. However, I do believe it would be reasonable for me to summarize my reasons for making this determination.

The directive from the Board panel that dismissed the applicant's 5/13/19 reconsideration petition was for this judge to determine "[w]hether good cause exists to set aside a settlement depends upon the facts and circumstances of each case. 'Good cause' includes mutual mistake of

fact, duress, fraud, undue influence, and procedural irregularities." (7/26/19 Opinion and Order Dismissing Recon Petitions, emphasis added.) Based on my review of the Board's order and the applicable case law, I believed that this "good cause" determination was properly made by means of an overall assessment of the facts in this case rather than rigid application of one specific doctrine.

In this regard, I took particular note of the applicant's quick action in trying to set aside the settlement package very soon after the ink had dried. While I did not find all aspects of applicant's testimony credible, I did find it credible that she returned to the Board early the next day and spoke to a WCAB Information and Assistance Officer with the goal of getting her settlements set aside. She filed her own reconsideration petitions seeking the same goal seven days later, well before any reconsideration deadline had expired. I noted some authorities suggesting that the showing of good cause which follows from a timely reconsideration petition need not be as strong or compelling as a similar claim brought after the reconsideration deadline has expired. (*Ibid;* see, e.g.*, Lopez v. Airport Century Inn*, 2016 Cal.Wrk.Comp.P.D. LEXIS 185.)

I also considered that in several other areas of the law, untutored consumers are provided with a short, statutory "cooling off period" to rescind an ill-considered decision. While I specifically noted that no such provision exists in workers' compensation law, I opined that liberal construction mandates supported some consideration of whether injured workers were entitled to some similar consideration with regard to decisions made in the complex area of workers' compensation law. (*Ibid.*)

In my opinion on decision, I also validated the applicant's claim of "undue influence," which may have been brought about more by the overall circumstances surrounding the settlement than any alleged misconduct by any of the parties involved. As I noted in my opinion on decision, "Undue influence has been defined as 'that kind of influence or supremacy of one mind over another by which that other is prevented from acting according to his own wish or judgment' (*Bolander v. Thompson*, 57 Cal.App.2d 444, 448.)" (*Id*. at p. 7.)

I believed that the applicant's undue influence claim was meritorious for two reasons. First, the settlement package comprised a complex series of three documents covering four different cases arising from claims of injury to a multitude of body parts. While it is far from unusual for settlements to be prepared, signed, presented for approval[,] and approved on the day of trial as was done here, by far the more common procedure, even pre-pandemic, was to go off-

calendar pending filing of the settlement papers, giving the injured worker a chance to fully digest the settlement terms, discuss the decision with friends and family members, etc. As I stated in my opinion, "I do accept that the then-crowded atmosphere of the WCAB, the complexity of a settlement 'package' involving four case numbers and three settlements, and the back and forth among two representatives from two different law firms handling the case [on the applicant's behalf] is not a promising environment about reaching a well-reasoned and well-deliberated decision about a major life event. Those who are inured to the day-to-day environment of the WCAB may lose sight of how intimidating and daunting the Board environment can be to a layperson whose own case is at stake." (*Id.* at p. 7.)

Second, I duly considered the voluminous psychiatric reports in this case, not for the purpose of determining underlying "case in chief issues," but to assess any claim that psychiatric impairments may have made the applicant particularly vulnerable to pressure or influence at a crowded court proceeding. As to this, I considered in my opinion on decision that longstanding psychiatric AME Dr. Howard Greils, in his most recent report of 1/15/15, found "ratable psychiatric impairment at a GAF level of 66 based on '[applicant's] vulnerability to psychiatric decompensation due to her past history of PTSD, Generalized Anxiety Disorder and Panic Disorder without Agoraphobia all in remission . . . .' While I take no position and make no findings as to the actual events that may have transpired, I note that the bulk of them have to do with interactions with others in a workplace, office type of environment, including as yet unverified allegations that was[,] she was held physically against her will in an office which led to one of several panic attacks." (*Id.* at p. 6.)

The Board panel, in its 7/26/19 opinion and order, also asked me to look into whether any "procedural irregulaties [sic]" would support good cause to rescind the settlements at issue herein. I found a notable procedural irregularity, namely, the apparently undisclosed use of an unlicensed hearing representative on behalf of one of the two law firms who were simultaneously representing the applicant as among her four pending cases. The applicant credibly stated that representatives from both firms were simultaneously speaking to her about the settlement, but she did not realize then that only one representative was actually a licensed attorney. A preponderance of evidence in ADJ10240855, uncontested on reconsideration, showed that representative Maria Martin from the handling Nielsen firm was not a licensed attorney, and failed to comply with multiple provisions of then-rule 10773 designed to make sure the applicant was aware that a non [-]attorney is handling

their case and that said non[-]attorney was properly supervised by a licensed attorney. (See Opinion on Decision, page 9.)

The applicant was adamant at trial that she was not aware of Ms. Martin's non[-]attorney status and was surprised and upset to learn of this after the settlement was finalized.

Yet another unsettling aspect of the settlement in ADJ10240855 was that both Ms. Martin's name and that of Nielsen firm attorney Kyle Nielsen were identified in handwriting as the applicant's attorney executing the stipulated award, even though there is no evidence that Mr. Nielsen appeared at the WCAB at the 5/23/19 trial when the settlement agreement was signed.

I acknowledged in my opinion on decision that the case handled by the Nielsen firm led to a zero percent stipulation and was arguably the least significant of the four cases in the settlement package. However, as I stated in my opinion, the applicant was found credible in stating she dealt with representatives of both firms at the same time. I also stated, "I do not see how I can simply parse out the obvious irregularities regarding one part of the settlement package without rejecting the package as a whole." (11/1/21 Opinion, p. 10.)

Interestingly, I find no arguments of substance in defendants 11/23/22 "Removal/Reconsideration" petition that assigning error to any of the above reasons for setting the settlements aside, or the facts I have asserted in support of these reasons. The challenges to my decision to rescind the entire settlement package appear to focus primarily on my evaluation of the potential value of the settled cases in connection with the rescission issue that was before me.

As I had some concerns regarding the potential value of the applicant's disputed claims versus the actual settlement amounts, I totaled up the ratings of the various AME reports as best I could determine them and noted that with regard to the largely uncontested orthopedic CT claims based on overuse, the rating would be approximately 27% or $25,932.50. I noted that if the contested stress-related body parts of body systems of psyche, teeth, gastrointestinal symptoms[,] and hypertension were also found compensable in accordance with the AME's WPI findings, the overall value of the CT would be approximately 43% or $51,060.00. I also noted that psychiatric AME Greils found an uncompensated TD claim of around eight months['] worth approximately $8,400.00, although I was careful to note that this required findings in the applicant's favor on the contested psychiatric stress claim and further posited that the judge would "conform pleading to proof" and award these periods even though they were not claimed in the pretrial conference statement.

Based on these computations, I stated in my opinion that the applicant arguably resolved the actual contested issues in her case at around 37% of their indemnity value. I explicitly noted that the settlements at issue "would fall within the range of adequacy in a disputed case . . . " However, I also stated that "it is not it is not clear that the applicant understood she was resolving the disputed indemnity issues for around 37% of their potential value, together with apparent compromise and release of the entirety of her highly contested psychiatric claim." (Opn. on Decision, p. 8.)

Based on all of the above considerations, I concluded that the totality of the evidence supported a finding of good cause to set aside the entire settlement package. I rejected the applicant's assertions at trial that she did not even know she was signing settlements as noncredible in light of her educational and occupational background and repeated signatures and initials throughout the settlement documents. I nevertheless concluded that the applicant had met her burden of demonstrating undue influence and procedural irregularity, particularly in light the complexity of the settlement package and other circumstances discussed above.

Another factor that needed to be considered was the applicant's testimony that she both received and deposited the indemnity and C&R sums sent to her in connection with the settlements at issue herein. These amounts totaled $32,597.50. At trial, it was unclear to me whether defendant sent these sums for applicant to deposit before or after she duly filed her reconsideration petitions seeking to repudiate the settlements on 5/31/19, eight days after the settlements were entered into. (There was no solid evidence on this question one way or the other at trial.) However, it now appears, based on information in defendant's reconsideration petition, that these sums were in fact sent to the applicant after she filed her reconsideration petition. Specifically, defendant now acknowledges that it "did pay the settlements" after the reconsideration petition had been filed as, "there had been no finding that the settlements were vacated at that point." ("Removal/Reconsideration" Petition, p. 5, lines 12-15.)

However, since applicant's receipt of substantial sums was undisputed, regardless of the timing, much of my findings, order, and supporting opinion and showing of good cause was devoted to various provisions essentially designed to facilitate defendant's recovery of any overpayment that might arise after the case-in-chief issues in the four now- "un-settled" cases were finally determined. Defendant nevertheless believes they are aggrieved by these provisions—as

discussed below, I agree that these provisions were improvident and should simply be rescinded, with any credit or reimbursement issues deferred to subsequent proceedings.

III.

DISCUSSION

Reconsideration vs. Removal Petition

While the petition herein is framed as a "Removal/Reconsideration" petition, it appears that it is actually a "hybrid" petition. Defendant's claims of error arising from my order setting aside the various settlement documents is obviously a final order properly challenged via a reconsideration petition. On the other hand, other provisions of my order regarding any future credit or reimbursement claims would appear to be non- final in nature, as no credit or reimbursement rights have actually been determined. It is well-settled that when a petition seeks both reconsideration relief and removal relief, the petition is properly treated as a reconsideration petition. (See, e.g., *Gonzalez v. G6 Hospitality*, 2019 Cal.Wrk.Comp.P.D. LEXIS 439.)

Discussion of Issues Regarding Rescission of the Settlement "Package"

It is noteworthy to this judge that the vast bulk of the reasons I gave for rescinding the settlements and the underlying facts relied upon in support of these reasons are not questioned or challenged on reconsideration. As best I can tell, defendant tacitly acknowledges that the applicant met her burden of proving both procedural irregularities and undue influence. In my respectful view, these circumstances alone would justify rescission of the settlements with or without any consideration of the potential value of the claims foreclosed by the settlement in comparison to the sums the applicant received. I believe this was a secondary consideration—the settlements, in my view, should have been set aside even if in fact they contained terms that were clearly favorable to the applicant.

Nevertheless, defendant still asserts error arising from my discussion of the potential value of the applicant's disputed claims in comparison to the settlement amount. However, I do not agree that this discussion in my opinion on decision, by itself, merits a retrial of the rescission issue, or that this discussion in my opinion on decision gives rise to valid claims of error.

Defendant believes they are aggrieved because, at the first trial date on 4/14/22, I stated that the voluminous medical reports in the case would be reviewed "*solely* for their value in terms of the applicant's physical and mental condition at the approximate time of the disputed settlements and not for the purpose of their value in proving or disproving the value of the underlying case."

(MOH, 4/14/22, p. 5, lines 22-24, emphasis added.) On the second day of trial, prior to any testimony of substance from the applicant on either date, I walked back on this somewhat, advising the parties that "notwithstanding the entries in the 4-14-22 minutes . . . . the Judge may, in his discretion, consider the existing medical reports for the purpose of computing such minimum advances as would actually be due under California's workers' compensation laws if all of the settlements were rescinded." (MOH, 8/25/22, p. 2, lines 4-11.)

Defendant is correct that I not only attempted to estimate the minimum amount due, I also tried to estimate the *maximum* amount due in comparison to the settlement amounts received, particularly as to the disputed elements of the applicant's claims. As general rule, I certainly believe some consideration of whether the settlement amount shocks the conscience is appropriate in determining whether applicant has met her good cause standard. However, taking my record reflections at face value, it arguably was misleading to defendant for me to considered [sic] [the potential value of the claims, or to try to calculate this potential maximum value based on the medical reporting.

I believe the intent behind my various record reflections was simply to emphasize that I would not try to pre-determine any of the underlying case-in-chief issues or the underlying merit of any of the medical reports in the manner that I would in a normal case-in-chief trial. I believe I stayed faithful to that goal. To the extent defendant was legitimately misled by my choice of words in my record reflections, I am not seeing how a different choice of words would have led to a different outcome, nor has defendant given any indication of any manner in which they would have presented their case differently.

In my opinion on decision, after evaluating my concerns about the settlement amount, I explicitly found that the settlement amounts "would fall within the range of adequacy in a disputed case . . . ." (11/1/22 Opinion, p. 8.)[1] There is accordingly no finding herein that the settlement amounts were so disproportionate that this alone would justify their rescission.

I did, however, make note in my opinion on decision that computing the potential value was a complicated enterprise and that it seemed unlikely the applicant has a clear understanding of the difference between the potential value of her case and the settlement amount. This, of course, is underscored by defendant's own disagreements, discussed below, with my assessment of the

[1] In light of this language in my Opinion it is unclear on what basis defendant asserts that I "seem[ed] to be finding that the settlements were not adequate." (Removal/Recon. Ptn., p. 3, lines 26.)

potential value of the claim. However, I simply do not see how these observations on my part support reversible error that would justify retrial of the entire rescission issue in light of all the other undisputed elements of good cause discussed above.

Although I believe this is a secondary concern at best, I note that in trying to determine both the value of the admitted portions of the case (which I explicitly stated I would do) and the denied elements of the case (to which defendant assigns error), my "string" ratings for the cervical spine, left shoulder, gastrointestinal and hypertension are each identical to those of defendant The difference regarding the wrist ratings I believe can be readily explained by the fact that defendant has erroneously lowered rather than raised their rating based on an "H" occupational variant. My headache rating is slightly higher at 6% rather than 5% because I used "13.01" for "consciousness disorder" for the operative body part as the PDRS does not include a selection for "head" or "headache." (Based on past experience, it is my understanding that the use of 13.01 is preferred by the DEU for evaluating headache impairment.) Since defendant does not provide a string rating for the psychiatric claim or dental claim, it is not clear whether their rating would differ from my string rating of these body parts or body systems. I also must dispute that, in assessing the full value of the applicant's *potential* claims, Psychiatric AME Greils gave 35% nonindustrial apportionment, as he apportioned all but 5% of the applicant's impairment either to actual workplace stress or the stress of the applicant's claimed internal, orthopedic[,] and dental injuries, if such injuries were accepted as valid.

Upon recalculating the potential value of the entirety of the applicant's claims, I am now getting an even higher CVC value of 46% after apportionment among the body parts or $55,890.00 based on combining the nine different asserted body parts or body systems, namely psyche (13%) both wrists (11% each), headaches (6%), cervical spine (6%), gastrointestinal (5%), dental (3%), hypertension (2%) and shoulder (2%). While I still believe the settlements were within the range of adequacy, my point is that this was a complicated "package" presenting quite a lot to digest in connection with a package of three settlements of four cases.

Obviously, the total potential value of four separate claims brought by the applicant could be computed several different ways. I do not believe that my determination of the rescission issue stands or falls on "number-crunching" of the potential trial value. No matter what plausible scenario one might posit for potential case value, the settlements comprised [sic] a very complex

transaction completed in a very short period of time. I do not find it erroneous for me to consider this circumstance in evaluating the showing of good cause.

While defendant also expresses concern that the failed settlements may require new medical reports, this is a potential concern any time a finding or judgment is reversed. This circumstance alone does not defeat an otherwise meritorious showing of good cause.

To sum up, for the reasons stated above, I disagree that defendant has presented a persuasive basis for setting aside my rescission orders herein.

* * * *

To sum up, I believe that my efforts to try to dictate any terms of credit or reimbursement before those issues are ripe for reimbursement have created far more problems than they resolve. For these reasons, I am recommending below that while the rescission of the settlement package should stay in place, any credit or reimbursement issues should simply be deferred for future consideration in the wise discretion of the WCAB.

IV.

RECOMMENDATION

For the reasons stated above, it is respectfully recommended that findings of fact 2 and 3 of my 11/1/22 Findings and Order be rescinded in their entirety, and thereupon be amended to read in their entirety, "Any issue of credit or reimbursement of sums previously paid in connection with the settlements rescinded herein is properly deferred at this time."

It is further recommended that subsections 1(d), 1 (e) and 1(f) of my 11/1/22 joint findings and order regarding any arrangements for future credit or reimbursement be rescinded in their entirety.

It is also recommended that defendant's "Removal/Petition" be dismissed solely as to case No. ADJ13069105, as defendant appears to have included that case in their petition in error.

It is also recommended that COLA's "Removal/Reconsideration" petition be otherwise denied, and that the underlying order rescinding the [sic] all of the settlements entered into on 5/23/19 in the cases at issue herein remain in place.

Finally, the Board may wish to consider referring these cases to its mediation services, as defendant, in their petition, has expressed interest in a negotiated resolution.

Respectfully submitted,

DANIEL A. DOBRIN
Workers' Compensation Judge

Served on parties listed below
On: December 20, 2022
By: Kimberly Townsend
DIANE CLAY, US Mail
NIELSEN FIRM LOS ANGELES,
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ROBINSON DILANDO LOS ANGELES
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