

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

**SERGIO MARTINEZ, *Applicant***

**vs.**

**GIANT JIM PEST CONTROL, INC.; EVEREST NATIONAL INSURANCE COMPANY,  
administered by GALLAGHER BASSETT SERVICES, *Defendants***

**Adjudication Number: ADJ10933797  
Lodi District Office**

**OPINION AND DECISION  
AFTER RECONSIDERATION**

Defendant, Everest National Insurance Company, petitions for reconsideration of the Findings of Fact, Orders, and Award issued by the workers' compensation administrative law judge (WCJ) in this matter on March 26, 2024. In that decision, the WCJ found that applicant, Sergio Martinez, sustained cumulative injury to his lumbar spine, knees, shoulders, hips and respiratory system arising out of and in the course of his employment by Giant Jim Pest Control, Inc. during a period ending on November 1, 2016, resulting in permanent total disability.

Defendant, which insured the employer for workers' compensation liability, contends that the evidence does not justify the finding that applicant sustained respiratory injury resulting in permanent total disability during the period of defendant's insurance coverage.

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 16, 2024, the parties filed a Compromise and Release in this matter.

In order to expedite review and approval of the Compromise and Release, we will rescind the March 26, 2024 Findings of Fact, Orders, and Award and return this matter to the trial level so that the WCJ can 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 petition for reconsideration. If the WCJ does not approve the Compromise and Release, she can issue an order reinstating the WCJ's decision and any aggrieved party may timely seek reconsideration from the reinstated decision.

Finally, we commend the parties for successfully resolving this 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of the Workers' Compensation Appeals Board that the Findings of Fact, Orders, and Award issued March 26, 2024, be **RESCINDED**.

IT IS FURTHER ORDERED that this matter be RETURNED to the workers' compensation administrative law judge for further proceedings consistent with this opinion.

**WORKERS' COMPENSATION APPEALS BOARD**

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ JOSEPH V. CAPURRO, COMMISSIONER

/s/ CRAIG SNELLINGS, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

DECEMBER 23, 2024

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

SERGIO MARTINEZ  
LAW OFFICE OF DANIEL MAST  
ALBERT & MACKENZIE  
OFFICE OF THE DIRECTOR-LEGAL UNIT (OAKLAND)  
EMPLOYMENT DEVELOPMENT DEPARTMENT

DH/ara

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