

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

**KENNETH COLLINS, *Applicant***

**vs.**

**AC TRANSIT, permissibly self-insured;  
administered by ATHENS ADMINISTRATORS, *Defendant***

**Adjudication Numbers: ADJ10719450, ADJ7844581  
Oakland 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.**

Applicant, Kenneth Collins, petitioned for reconsideration of the Findings and Award issued by the workers' compensation administrative law judge (WCJ) in this matter on September 20, 2021. In that decision, the WCJ found that applicant's injury to his knees, shoulders, right index finger and left hip arising out of and in the course of his employment as a bus driver during a cumulative period ending June 30, 2016, by defendant, AC Transit, then permissibly self-insured for workers' compensation liability, caused permanent partial disability of 64%.

Applicant contends in his petition for reconsideration that the WCJ erred in not finding that the injury caused permanent total disability.

Defendant filed an answer contending that the petition for reconsideration should be denied.

The WCJ issued a report in which she recommended that the petition for reconsideration be denied.

Subsequently, at our request the parties participated in a commissioners' settlement conference and agreed to resolve this matter by compromise and release.

The executed Compromise and Release was filed on August 19, 2022. The amount of the settlement is \$300,000, less credit to defendant for permanent disability indemnity paid of

\$59,674.24, less \$44,889 to fund a Medicare set aside trust and less an attorneys' fee of \$28,328.62 leaving a balance of \$167,108.14 payable to applicant in a lump sum. The Compromise and Release also provides that defendant will 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. We also conclude that the attorneys’ fee requested is reasonable and should be allowed.

Therefore, we will rescind the Findings and Award issued by WCJ on September 20, 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 and Award issued on September 20, 2021, be **RESCINDED**.

**IT IS FURTHER ORDERED** that the Compromise and Release filed August 19, 2022, be **APPROVED**.

**AWARD IS MADE** in favor of **KENNETH COLLINS** against the **AC TRANSIT**, **permissibly self-insured**, as specified in the Compromise and Release.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ MARGUERITE SWEENEY, COMMISSIONER**

**I CONCUR,**

**/s/ JOSÉ H. RAZO, COMMISSIONER**

**/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER**



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

**August 29, 2022**

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

**KENNETH COLLINS  
LAW OFFICE OF ROBERT E. WOOD  
COLEMAN, CHAVEZ & ASSOCIATES**

**DH/ara**

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