

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

MARIA SANDOVAL, *Applicant*

vs.

**H&R LIVESTOCK TRANSPORTATION, INC.; AFFINITY INSURANCE LIMITED
administered by GALLAGHER BASSETT SERVICES, *Defendants***

**Adjudication Number: ADJ3825055 (FRE 0249583)
Fresno 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.

Defendant, Affinity Insurance Limited, petitioned for reconsideration of the Findings of Fact and Award issued by the workers' compensation administrative law judge (WCJ) in this matter on March 8, 2021. In that decision, the WCJ found that applicant's injury to her back and left knee, ankle, foot, upper extremity and shoulder arising out of and in the course of her employment on July 11, 2011, as a truck driver by H&R Livestock Transportation, Inc., caused permanent total disability and need for further medical treatment.

Defendant Affinity Insurance Limited, which insured the employer for workers' compensation liability at the time of the injury, contends in its petition for reconsideration that the WCJ erred in finding that applicant's injury caused permanent total disability.

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

The WCJ issued a report in which he 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 Compromise and Release was filed on January 20, 2022. The amount of the settlement is \$900,000, less credit for permanent disability indemnity paid of \$62,531.02, and less an attorneys' fee of \$135,000, leaving \$702,468.98 payable to applicant as a lump sum. The Compromise and Release also provides that defendant will 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. In addition, we 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 workers' compensation administrative law judge on March 8, 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 March 8, 2021, be **RESCINDED**.

IT IS FURTHER ORDERED that the Compromise and Release filed January 20, 2022, be **APPROVED**.

AWARD IS MADE in favor of **MARIA SANDOVAL** against **AFFINITY INSURANCE LIMITED** as specified in the Compromise and Release.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ CRAIG SNELLINGS, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

JANUARY 25, 2022

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

**MARIA SANDOVAL
GROVE LAW FIRM
PARKER, KERN, NARD & WENZEL**

DH/ara

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