

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

**MARIO ACOSTA, *Applicant***

**vs.**

**SUBSEQUENT INJURIES BENEFITS TRUST FUND, *Defendants***

**Adjudication Numbers: ADJ1565410 (SAL0116080); ADJ916013 (SAL0095929)  
Salinas District Office**

**OPINION AND DECISION  
AFTER RECONSIDERATION**

We granted reconsideration<sup>1</sup> in this matter to study the factual and legal issues. This is our Opinion and Decision After Reconsideration.

Applicant timely petitioned for reconsideration of the Findings and Award issued by the workers' compensation administrative law judge (WCJ) on February 10, 2022. We granted reconsideration to study the factual and legal issues presented.

Following their participation in a commissioners' settlement conference set at our request, applicant and SIBTF resolved applicant's claim against SIBTF by Compromise and Release. The Compromise and Release was filed on July 26, 2022.

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(b) 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(b).)

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<sup>1</sup> Commissioner Lowe, who was on the panel that issued a prior decision in this matter, no longer serves on the Appeals Board. Another panelist has been assigned in her place.

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.”

(See Lab. Code § 5003 [setting forth requirements for form and contents of the agreement].)

After considering the Compromise and Release in light of the entire record and the risks to applicant of further litigation, we conclude that the settlement amount is adequate and that the agreement is in applicant’s best interest.

We also conclude that the attorneys’ fee requested is reasonable in light of the complexity of the case and should be allowed.

Therefore, as our Decision After Reconsideration, we rescind the Findings of Fact and Order and approve the Compromise and Release, including the attorneys’ fee requested.

Finally, we commend the parties for their willingness to bargain in good faith and resolve 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 Order issued by the workers’ compensation administrative law judge on February 10, 2022 be **RESCINDED**.

**IT IS FURTHER ORDERED** that the Compromise and Release be **APPROVED**.

**AWARD IS MADE** in favor of **MARIO ACOSTA** against the **SUBSEQUENT INJURIES BENEFITS TRUST FUND** as specified in the Compromise and Release agreement.

**WORKERS' COMPENSATION APPEALS BOARD**

/s/ KATHERINE A. ZALEWSKI, CHAIR

**I CONCUR,**

/s/ JOSÉ H. RAZO, COMMISSIONER



/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER

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

**July 29, 2022**

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

**MARIO ACOSTA  
PATRICIA JIMENEZ MARTINEZ, GUARDIAN AD LITEM  
SAMARRON & SCHWARTZAPFEL  
OFFICE OF THE DIRECTOR-LEGAL UNIT**

**RN/abs**

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