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8792

POLANCO (SAMUEL) V. WEST COAST DRYWALL & PAINT

Proof of Service

WCAB #: ADJ8067791

Claim #: E2805003

SSN #: 604-18-3300

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 150 N. Feldner, Orange CA 92868.

Finding & Order
Opinion on Decision

On 3/14/2014 I served the foregoing document(s) on the interested parties in this action by placing a true copy thereon enclosed in a sealed envelope with postage thereon fully prepaid in the United States mail at 150 N. Feldner, Orange California, addressed as follows:

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LOS ANGELES COUNTY DA OFFICE
201 North Figueroa Street 15 floor
Los Angeles CA 90012-

PROEX DIAGNOSTICS
1146 N. Central Ave. #106
Glendale CA 91202-

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Diamond Bar CA 91766-

Diane Milne
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John Blakely
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Los Angeles CA 90048-

MEDILOGIC INCORPORATED
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QUALTIY INTERPRETING INC.
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Los Angeles CA 90010-

MARQUEE INTERPRETERING LLC
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Los Angeles CA 90010-

NONINVASIVE THERAPEUTICS INC.
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Los Angeles CA 90010-

TRANSLATING SOLUTIONS
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Santa Ana CA 90405-

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Rancho Cucamonga CA 91730-

PHARMA FINANCE LLC
7211 Haven Ave., #E-354
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LAB FOR PHYSICIANS
1535 S. D Street #210
San Bernardino CA 92408-

L.I.N. LEGAL INTERPRETING
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Los Angeles CA 90027-

Kambiz Hannani
MEDICAL OFFICES
1135 S. Sunset Ave. #209
West Covina CA 91790-

CURT'S COMPOUNDING PHARMACY
18134 Mt. Washington
Fountain Valley CA 92708-

HEALTHCARE FINANCE RANCHO CU
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Rancho Cucamonga CA 91730-

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MEDICAL LIEN MANAGEMENT
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Norco CA 92860-

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1200 North Tustin #255
Santa Ana CA 92705-

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MEDICAL OFFICES
8670 Wilshire Blvd. Suite 206
Beverly Hills CA 90211-

ONTARIO HEALTH CLINIC
PO Box 76002
Anaheim CA 92809-7602

ESTEVEZ INTERPRETING INC
PO Box 1607
Riverside CA 92502-1607

I certify and declare under penalty of perjury that it is my belief that the foregoing is true and correct

Executed on 3/14/2014 at Orange, California.



STATE OF CALIFORNIA
Division of Workers' Compensation
Workers' Compensation Appeals Board

SAMUEL POLANCO,

Applicant,

vs.

WEST COAST DRYWALL & PAINT,
CNA CLAIMS PLUS,

Defendants.

Case No. ADJ8067791

FINDINGS AND ORDER

Law Office of Robert Ozeran
By: Robert Ozeran, Esq.,
Attorneys for Applicant

Silberman Law Offices, LLP
By: Susan W. Silberman, Ph.D., Esq.,
Attorneys for Defendant

An application having been filed herein; all parties having appeared in the above entitled matter having been heard and submitted, the Honorable TRACY L. HUGHES, Workers' Compensation Administrative Law Judge, now decides as follows:

FINDINGS OF FACT

1. Samuel Polanco, born February 26, 1954, while employed during the period June 19, 2010 through June 10, 2011, by West Coast Drywall and Paint, claims to have sustained injury arising out of and in the course of employment to his back, head, eye, wrist, hand, right shoulder, right elbow, right knee, both feet, heart, and sleep.
2. It is found the defendants had a valid post-termination defense pursuant to Labor Code Section 3600(a)(10) and as such the applicant's claim is barred.
3. The applicant did not prove injury AOE/COE.

ORDER

IT IS ORDERED having found the applicant's claim barred by Labor Code Section 3600(a)(10) that applicant shall take nothing further by the claim filed herein.

Date: 3/13/2014



TRACY L. HUGHES
WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE

TH:kh

Dated: 3/13/2014

By: K. Hall

SERVICE:

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ON PARTIES PER THE CURRENT
OFFICIAL ADDRESS RECORD.

Enclosure: Service List

STATE OF CALIFORNIA
Division of Workers' Compensation
Workers' Compensation Appeals Board

CASE NUMBER: ADJ8067791

SAMUEL POLANCO

-vs.-

WEST COAST DRYWALL & PAINT,
CNA CLAIMS PLUS,

WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE:

TRACY L. HUGHES

DATE: March 11, 2014

OPINION ON DECISION

The soul issues for trial were limited to:

1. Injury AOE/COE;
2. Whether the defendant had a valid post-termination defense pursuant to Labor Code Section 3600(a)(10).

INJURY AOE/COE & POST-TERMINATION DEFENSE

Labor Code Section 3600(a) (10) states that no compensation shall be paid for non-psychiatric injuries where the claim for compensation is filed after notice of termination or layoff, including voluntary layoff, and the claim is for an injury occurring prior to the time of notice of termination or layoff, unless the employee can demonstrate by a preponderance of the evidence that one or more of the following conditions apply:

- the employer has notice of the injury prior to the notice of termination or layoff;
- the employee's medical records, existing prior to the notice of termination or layoff, contain evidence of the injury;
- the date of injury is subsequent to the date of the notice of termination or layoff, but prior to the effective date of the termination or layoff; and/or
- The date of injury is subsequent to the date of the notice of termination or layoff.

In the instant matter, there was no documentation in the medical records provided to me that

the applicant sought medical treatment for any of the body parts he alleged injured as a result of his employment with the defendant prior to his notice of termination. Likewise, there is no documentary evidence that the applicant alleged or advised his employer of a work injury prior to his notice of termination.

By stipulation of the parties they agreed the applicant's last day of work was June 10, 2011. The applicant was terminated on June 10, 2011. While testifying on direct examination, the applicant stated he did not report a work injury to his employer. The first time the applicant told his employer of a work injury was when he filed an employee claim form on August 28, 2011.

While testifying on cross-examination, the applicant denied that he received medical treatment for any parts of body he alleged injured as a result of his employment with the defendant. Likewise, the applicant did not receive treatment for any body parts alleged injured as a result of his employment prior to his termination with the defendant.

While testifying on direct examination, the applicant stated he believed he was injured at work while removing material off a rack. He experienced pain in his left knee, back and neck. However, he did not report an injury or the pain to his employer. This incident occurred on June 19, 2010.

Based on the forgoing, I find that the defendant has a valid post-termination defense. The applicant presented no medical records which evidenced injury or treatment to any body parts he alleged injured as a result of his employment with the defendant prior to his termination from West Coast Drywall. He provided no evidence that the employer knew of any such injury prior to his termination from employment. I find that any claim of injury to the back, head, eye, wrist, hand, right shoulder, right elbow, right knee, both feet, heart, and sleep is barred by Labor Code Section 3600(a)(10).

Date: 3/13/2014



TRACY L. HUGHES
WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE

TLH:kh

On: 3/13/2014
By: K. Hall

SERVICE:

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