STATE OF CALIFORNIA

Division of Workers' Compensation Workers' Compensation Appeals Board

Case No.
FINDINGS OF FACT

The above entitled matter having been heard and regularly submitted, the Honorable Workers' Compensation Administrative Law Judge, now decides as follows:

FINDINGS OF FACT

- 1. born on while employed during the period 12-01-2009 through 08-31-2010 as a caregiver, at El Centro, California, by legally uninsured and administered by claims to have sustained injury arising out of and in the course of employment to the neck, back, bilateral upper extremities, and psyche.
- 2. Trial was set on limited issues: Injury arising out of and in the course of employment as to Whether constitutes "other insurance" pursuant to Insurance Code Section 1063.1(c)(9). All other issues deferred.
- 3. Applicant has pending three (3) other cases, all claiming a specific date of injury, those cases are not at issue herein.
- 4. It is concluded the medical reports of AME Dr. (exhibit "Y") do not constitute substantial medical evidence of the cumulative trauma as alleged. Applicant shall take nothing herein as to the claimed cumulative trauma injury.
- 5. It is concluded the applicant's testimony at trial as to her physical job demands with does not support the cumulative trauma as alleged. Applicant shall take nothing herein as to the claimed cumulative trauma injury.

	6.	It is co	ncluded	legally	ur	insured as	to all 1	periods r	elevant t	to this	cas	se, does
not	constitute	"other	insurance"	pursuant	to	Insurance	Code	Section	1063.1((c)(9)	as	alleged
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IJΑ	TE: <u>July 29</u>) , 2019					***************************************				***************************************	······································
									RS' COMI			-
								ADMINIS'	TRATIVE	LAW	JUD	GE

CASE NUMBER:

-VS.-

WORKERS' COMPENSATION ADMINISTRATIVE LAW JUDGE:

DATE:

July 30, 2019

OPINION ON DECISION

INJURY AOE/COE

Based upon applicant's credible testimony and the medical report of M.D., (exhibit "B") dated September 10, 2018, which are the better reasoned and more persuasive, it is found that applicant did not sustain injury to her neck, back, bilateral upper extremities, and psyche arising out of and occurring in the course of employment during the period December 1, 2009 to and including August 31, 2010.

While the applicant is not found to be credible to testify as to medical issues on injury AOE/COE, her trial testimony as to the duration and nature of the services provided under does not support the finding of a cumulative trauma injury. That testimony combined with the medical report and findings of the PQME Dr. (exhibit "B") is found to be sufficient evidence upon which to base a finding of no industrial cumulative trauma injury. The applicant's trial testimony and the report of Dr. as to the work done with was not rebutted.

WHETHER CONSTITUTES "OTHER INSURANCE" PER INSURANCE CODE

Labor Code Section 3700 provides that every employer shall obtain coverage for compensation of industrial injuries, with some exemptions. In this case the issue raised is

whether has exposure as "other insurance" pursuant to Insurance Code 1063.1(c)(9) due to its status as being legally uninsured.

The parties submitted trial briefs on the issue, no testimony was taken at trial on that issue.

Although not binding precedent, the WCJ finds the decision in <u>Willie Pearson v. State of California Department of Corrections</u>, legally uninsured, to be applicable to the facts and issues relevant herein. The WCJ has reviewed the joint Opinion and Decision after Reconsideration issued September 1, 2015, and finds that to be sufficient authority for the finding that does not constitute "other insurance" and therefore has no liability herein.

DATE: July 29, 2019	
	WORKERS' COMPENSATION
	ADMINISTRATIVE LAW JUDGE

Service by mail on interested parties shown on the Official Address Record

Date: 7/30/2019 by; _____

OFFICIAL ADDRESS RECORD

Case Number:	
	Law Firm,
	Law Firm.
(√)DIETZ GILMOR ONTARIO	Law Firm, 3333 CONCOURS ST BLDG 7 FL 2 ONTARIO CA 91764 Employer,
	Injured Worker,
	Claims Administrator,

I am over age 18, not a party to this proceeding, and am employed by the State of California, DWC, Pomona District Office of the WCAB, located at 732 Corporate Center Drive, Pomona, CA 91768.

On 7/30/2019, I served the attached FINDINGS OF FACT AND OPINION on the interested parties in said cause, by e-mail, fax, or by placing a true copy thereof, enclosed in a sealed envelope, with postage fully paid, addressed to the party or parties with check mark (\sqrt) above. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

	/30/2019	by;	
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