

1 STATE OF CALIFORNIA
2 DIVISION OF WORKERS' COMPENSATION
3 WORKERS' COMPENSATION APPEALS BOARD

4)
5) Case No.
6) Santa Ana District Office
7)
8)
9) Applicant,
10)
11)
12) vs.
13) MINUTES OF HEARING
14) AND
15) SUMMARY OF EVIDENCE
16)
17) permissibly
18) self-insured, administered by
19)
20)
21) Defendant.
22)
23)
24)

25 DISTRICT OFFICE: Santa Ana
LOCATION: Santa Ana, California
DATE AND TIME: December 17, 2019; 11:16 - 11:48 a.m.
1:42 - 2:40 p.m.

JUDGE: The Honorable
REPORTER: (A.M.) Hearing Reporter
(P.M.) Hearing Reporter

APPEARANCES: Applicant present

LAW OFFICES OF
By:
Attorney for Applicant

DIETZ, GILMOR & CHAZEN
By: ERIN WARD-DUGAN
Attorney for Defendant

Spanish Language
Interpreter, Certification

WITNESSES: Applicant

DISPOSITION: The matter is submitted for decision.

(22 pp est. a.m./26 pp est. p.m.)

1 **APPLICANT'S 3:**
2 Medical report of dated 8-13-2019.

3 Applicant's Exhibits 1 through 3 are entered into evidence
4 without objection.

5
6 **LET THE RECORD REFLECT THAT** the Court is in receipt of
7 paper copies of defense exhibits. Defendant is an
8 E-filer; therefore, defense counsel has been instructed to
9 E-file all of **Defense Exhibits A** through **J** this afternoon when
10 counsel returns back to her office.

11
12 But for now, the Court will read these exhibits into
13 the record, and absent any objections, the Court will accept
14 these exhibits into evidence.

15
16 **DEFENSE A:**

17 Order Approving Compromise and Release and Compromise and
18 Release Agreement dated 2-24-2014 (For

19 **DEFENSE B:**

20 Compromise and Release Agreement and Order Approving Compromise
21 and Release dated 12-6-2016.

22 **DEFENSE C:**

23 Compromise and Release Agreement and Order Approving Compromise
24 and Release dated 6-7-2018.

25 **DEFENSE D:**

Subpoenaed records from dated 9-9-2019.

DEFENSE E:

personnel file dated 10-19-2017.

DEFENSE F:

Employee Wage Statement dated 5-15-2019.

DEFENSE G:

AME report of M.D. dated 7-22-2015.

DEFENSE H:

AME report of M.D. dated 11-30-2015.

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DEFENSE I:
AME report of M.D. dated 3-8-2016.

DEFENSE J:
Denial letter dated 5-17-2019.

Defense Exhibits A through J are entered
into evidence.

LET THE RECORD REFLECT THAT applicant's attorney
elected not to ask any questions of the applicant on direct
examination.

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* * * * *

(A.M. SESSION)

S U M M A R Y O F E V I D E N C E

was duly sworn to translate from English
to Spanish, and from Spanish to English,
to the best of her ability.

Applicant, was called, sworn, and
testified through the Spanish Language
Interpreter substantially as follows:

CROSS-EXAMINATION BY MS. DUGAN:

The applicant confirmed that she was initially hired
by in 2005.

It is noted, for the record, that the applicant has
worked at approximately four different locations
throughout her career of working for

1 The applicant confirmed that she did file her first
2 workers' compensation case against in approximately
3 2013. She could not recall what body parts she claimed as
4 being injured.

5 Defense counsel made reference to **Defense Exhibit A**
6 which contains a copy of a C&R Agreement and an Order
7 Approving C&R with reference to a CT injury ranging from
8 7-1-2008 through 6-13-2012. The applicant was asked if this
9 date was correct. The applicant stated that she did not know.

10 With reference to the claimed body parts injured,
11 defense counsel read the following body parts into the record:

12 Head, eye, shoulders, psyche, fingers, thighs, knees,
13 hands, wrists, back, and neck. The applicant then confirmed
14 that these claimed body parts sounded correct.

15 The applicant agreed that she stopped working for the
16 first store in 2013. She initially stated that she
17 stopped working for the store because she had moved to another
18 state. She subsequently agreed that she had been terminate
19 from her employment from this store.

20 The applicant stated that she had made a claim against
21 for something. She was then advised that the social
22 security number that she was utilizing was "false." Defense
23 counsel pointed out that based on **Defense Exhibit A** which
24 contains a copy of the Compromise and Release Agreement
25 associated with her claim, the social security number that she
used was The applicant was asked if this was a
social security number which had been issued to her by the U.S.
government. The applicant said, "No."

26 Defense counsel pointed out that the C&R Agreement
27 states that the settlement sum is \$10,700, and that the date of
28 the C&R Agreement and Order Approving C&R is 2-26-2014.
29 The applicant did not disagree with these details.

30 The applicant confirmed that she then reapplied for
31 work at a different location for This location was the
32 store. She was asked whether she used a
33 different name when she applied for employment at the
34 store. The applicant initially said
35 "No." Reference was made to **Defense Exhibit B** which contains a
copy of a C&R Agreement and an Order Approving C&R. The name
on the C&R Agreement is The name is not
on the document. The applicant confirmed that this information
sounded correct.

1 With reference to the C&R Agreement, it recites a
2 social security number of [redacted]. The applicant stated
3 that she could not recall what social security number she
4 utilized with reference to the C&R Agreement. However, she did
5 agree that this was not a social security number that was given
6 to her by the U.S. government.

7 The applicant was asked how many claims she filed
8 against the [redacted] store in [redacted]. The applicant
9 initially stated, "One." Reference was made to Defense Exhibit
10 B which contains a copy of the C&R Agreement and the Order
11 Approving C&R associated with the applicant's period of
12 employment with the [redacted] store. According to the
13 C&R Agreement, the applicant actually filed four workers'
14 compensation claims. When asked whether this sounded correct,
15 the applicant stated, "Correct."

16 Defense counsel indicated, for the record, that the
17 first injury claim involves a CT injury ranging from 5-1-2013
18 through 5-1-2014 concerning the applicant's neck, wrists,
19 hands, back, and multiple body parts. The applicant was asked
20 if she could recall what multiple body parts were injured. The
21 applicant stated that she could not recall.

22 With reference to the second injury claim, it is a CT
23 injury claim ranging from 12-2-2013 through 10-7-2014 regarding
24 the applicant's wrists and hand. The applicant indicated that
25 these body parts sound correct.

With reference to the third injury claim, it is a
specific injury for 12-1-2013 involving her wrists and hands,
the applicant stated that this sounded correct to her.

With regard to the fourth injury claim, it is a CT
injury claim ranging from 10-7-2014 through 1-25-2016 regarding
the applicant's neck, wrists, hands, back, and multiple body
parts. The applicant indicated that these body parts sounded
correct, but she could not recall what would have been involved
with the claim for multiple body parts.

The applicant indicated that after filing these four
injury claims, she did stop working for [redacted]. She stated
that she was terminated because she was advised that she had
provided a "false social security number." The applicant
agreed that the C&R sum regarding this matter was for \$4,000.
The defense counsel indicated that the order approving C&R is
dated 12-6-2016.

1 The applicant confirmed that she did apply at another
2 location in This was the third location
3 that she had worked for. She did file an injury claim
4 regarding her work at this store in approximately 2016.
5 Defense counsel referenced **Defense Exhibit C** which contains a
6 Compromise and Release Agreement and Order Approving C&R which
7 indicates that the applicant filed a CT injury claim ranging
8 from 9-26-2016 through 9-26-2017. When asked whether
9 this date of injury sounded correct, the applicant said,
10 "Yes."

11 Defense counsel indicated that this injury claim
12 involved the applicant's back, shoulder, and knee. The
13 applicant was asked whether she received any medical treatment
14 in connection with this injury claim. The applicant said,
15 "No." The applicant was asked what social security number she
16 used with reference to this case filing. The applicant stated
17 that she did not know. Defense counsel indicated that this C&R
18 document indicates a social security number of
19 The applicant stated that this was not the social security
20 number that had been given to her by the U.S. government.

21 The applicant stated that she stopped working at the
22 store because she had been fired/terminated due
23 to the fact that she had provided a "false social security
24 number."

25 The applicant stated that she thought she received a
26 C&R Agreement with reference to the case in the
27 amount of \$9,500. Defense counsel made reference to **Defense**
28 **Exhibit C** which contains a copy of the C&R Agreement and the
29 Order Approving C&R. The lump sum settlement amount is
30 \$10,000. The Order Approving C&R is dated 6-7-2018.

31 The applicant was asked whether she applied for
32 employment at a different location after leaving the
33 store location. The applicant stated that she did. The
34 applicant stated that when she applied at the fourth location,
35 she utilized the name of Defense counsel
36 referenced to **Defense Exhibit E** which contains a copy of the
37 personnel file regarding the fourth store location where
38 the applicant worked. According to the documents, the
39 applicant applied for employment under the name of

40 It also indicates that she used the social
41 security number of The applicant stated that this
42 was not a social security number that had been provided to her
43 by the U.S. government.

1 The applicant was asked when she was hired by this
2 fourth location for The applicant initially stated
3 that it was approximately November 2018. Defense counsel made
4 reference to Defense Exhibit N which contains a copy of a wage
statement provided by This statement indicates that
the applicant actually started employment at the fourth
location on 10-19-2017.

5 The applicant stated that eventually she was
6 fired/terminated from this fourth store location. She
7 stated that she was fired because she "put a claim in for my
8 injured knee." Reference was made to the applicant's personnel
9 file which is contained in Defense Exhibit E. Defense counsel
10 pointed out that records indicate that the applicant
11 was terminated from her employment on 5-22-2018 as a result of
12 job abandonment. The records indicate that the applicant had
13 three "No Shows" for work on 5-14-2018, 5-16-2018, and
14 5-21-2018. The records indicate the applicant last worked at
15 the store on 5-5-2018. The applicant stated that she did
16 recall being terminated for job abandonment. She stated that
17 she abandoned her work for due to pain in her right
18 knee.

12 * * * * *

14 * * * *

15 P.M. SESSION

16 S U M M A R Y O F E V I D E N C E

17 Applicant, called as a
18 witness on her own behalf, having been first duly sworn through
19 the Spanish interpreter, also having been sworn, testified
substantially as follows:

20 CROSS-EXAMINATION BY MS. DUGAN:

21 The applicant stated that her right knee started
22 hurting her after the accident, which is in reference to her
present case regarding CT 11/01/17-5/31/2018.

23 The applicant initially stated that she hurt her right
24 knee at the end of April 2017. She then corrected her response
25 and stated that it was April 2018. The applicant explained
that she was coming down the ladder; she slipped. As she
slipped, she hit her right knee on the rung of the ladder.

1 The applicant stated that she reported her injury to
2 her supervisor whose name is He told her to sit down
3 for a little while which she did. The applicant stated that
4 eventually she left work because she was in too much pain
5 regarding her right knee.

6 Reference was made to Defense Exhibit C which contains
7 a copy of a Compromise and Release Agreement and Order
8 Approving Compromise and Release dated 6-7-2018.

9 With reference to these documents, at the time the
10 applicant was represented by an attorney named

11 Defense counsel pointed out that this C&R related to a
12 CT injury claim for the period 9-26-2016 through 9-26-2017
13 regarding her back, shoulder, and knee. The applicant
14 indicated that this sounded correct to her. The applicant
15 confirmed that she did injure her right knee in April of 2018
16 with reference to her work at the location.

17 The applicant stated that with regard to the above-
18 mentioned claim,, she did settle that injury claim six weeks
19 after for her 4-2018 right knee injury claim.

20 When asked whether she told Mr. about the
21 April 2018 right knee injury, the applicant stated that she did
22 not because she did not want to have to leave her job at

23 The applicant stated that she understood that
24 had a policy that if you fail to show for work on three
25 occasions that an employee would be terminated.

 The applicant did not seek any medical treatment
regarding her right knee injury in 2018.

 The applicant was asked whether she had any other
gainful employment after leaving her employment with in
approximately May 2018. The applicant declined to answer this
question based upon her Fifth Amendment right under the U.S.
Constitution. (Herein and after, Fifth Amendment right).

 Defense counsel made reference to Defense Exhibit D,
which contains subpoenaed records regarding the applicant from

 The applicant was asked whether she ever
worked for after leaving her employment with

 The applicant did not answer and raised her Fifth
Amendment right.

1 Reference was again made to Defense Exhibit D.
2 Defense counsel indicated that records indicate
3 that the applicant had a start of employment date of 8-15-2018.
4 When asked to admit whether or not this was her correct start
5 date, the applicant raised her Fifth Amendment right.

6 The applicant was asked whether she was still working
7 for as of 9-22-2019. Again, the applicant raised
8 her Fifth Amendment right and did not respond to the question.

9 Defense counsel referenced Defense Exhibit F, which is
10 a wage statement which is current through 9-22-2019.
11 The applicant was asked if whether prior to April 2018 she had
12 a right knee problem and/or bilateral knee problems. The
13 applicant initially said, "No." The applicant denied having
14 any right knee problem prior to her April 2018 right knee
15 incident above described.

16 The applicant recalled previously being examined by
17 Dr. with regard to some prior workers'
18 compensation cases that she had filed. She confirmed that she
19 was honest with Dr. regarding telling him about her
20 injured body parts in connection with those injury claims. She
21 told him where she was feeling pain.

22 Reference was made to Defendant's Exhibit G which
23 contains Dr. 7-22-2015 report. Defense counsel noted
24 that at page 2 of the report, Dr. indicates that the
25 applicant reported experiencing constant bilateral knee pain in
2015.

26 The applicant was then asked if she recalled having
27 bilateral knee pain in 2015. The applicant said, "Yes." The
28 applicant was then reasked whether she recalled having right
29 knee pain or bilateral knee pain prior to April of 2018. The
30 applicant said, "Yes."

31 The applicant stated that she never told her prior
32 attorney about any of her recent employments. She
33 did not tell him that she had been terminated from She
34 did not tell him that she had a right knee injury in April of
35 2018.

36 The applicant stated that the C&R Agreement, which she
37 signed when Mr. was representing her, is a document
38 which she did read. The applicant stated that with reference
39 to her present case that she first received medical
40 treatment in approximately June of 2019. She confirmed that

1 this was about one year after she had been terminated from

2

3 The applicant sought treatment from Dr. who
4 became her primary treating physician (PTP). The applicant was
5 referred to Dr. by her attorney. The applicant stated
6 that she gave him a complete medical history. When asked
7 whether she told him about her approximately six prior workers'
8 compensation cases against the applicant stated that
9 she did not tell Dr. about these injury claims. This is
10 because these cases were closed.

11 When asked whether Dr. asked her to provide him
12 with a prior medical history, the applicant said, "No." When
13 the applicant first saw Dr. she told him that she was
14 having pain in her right knee due to the "knock" she had gotten
15 on her right knee from the rung of the ladder. This is the
16 incident that occurred in approximately April 2018.

17

18 DIRECT EXAMINATION BY

19 The applicant does not understand what ADJ numbers
20 are. The applicant indicated that she is aware that she
21 settled some cases which contained four ADJ numbers, but she
22 did not understand that these related to four different
23 injuries or incident. In her mind, she felt that it was all
24 just one big claim.

25

26 Applicant's counsel made reference to Defense
27 Exhibit B which contains a Compromise and Release Agreement and
28 an Order Approving dated 12-6-2016 which, in fact, settled four
29 injury claims with four separate ADJ numbers.

30

31 The applicant does not have a social security number
32 issued to her by the U.S. government. This is because she is
33 not a legal resident of the United States.

34

35 The applicant has five children.

36

37 The applicant has used different social security
38 numbers on her various C&R documents which have already been
39 referenced in this matter because she did not have her own
40 personally issued social security number.

41

42 The applicant confirmed that her right knee pain was
43 at its maximum in approximately April 2018.

44

1 With regard to the ladder incident, which occurred in
2 April 2018, the applicant did report it to her supervisor whose
3 name is . The applicant stated that after this
4 incident she did have problems with her right knee. She was
5 unable to kneel on the floor due to her right knee pain.

6 The applicant explained that when she worked for
7 in April of 2018, she worked in a warehouse. She put
8 supplies away. She lifted boxes that weighed up to 45 pounds.
9 She had to carry them from one place to another. She had to
10 lift them and place them on shelves. She did tell her
11 supervisor that she could not kneel on her right
12 knee, but he told her she had to do her work.

13 The applicant stated that she did not get medical
14 treatment for her right knee right away because she did not
15 have money and she did not have a job. She does not have
16 health insurance.

17 The applicant confirmed that she was referred to her
18 present PTP Dr. by her present attorney. He told the
19 applicant that she has injured tendons in her right knee. He
20 did give her some injections in her right knee. She feels
21 better as a result of these injections.

22 The applicant explained that she felt pain in her
23 right knee immediately after her April 2018 ladder incident
24 injury.

25 ///

RECROSS-EXAMINATION BY MS. DUGAN:

1 The applicant confirmed that she has filed multiple
2 prior injury claims against . When asked whether she
3 understood how to hire an attorney, the applicant said, "No."

4 The applicant stated that with reference to the
5 April 2018 ladder incident, other than reporting it to
6 she did tell a coworker about it.

7 The applicant confirmed that she did not have any
8 medical treatment until approximately one year after her
9 April 2018 injury. The applicant stated that she decided to
10 file an injury claim against in approximately May 2019
11 because she could not stand the right knee pain she was
12 experiencing anymore.

13 There was no redirect.

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Workers' Compensation
Administrative Law Judge

Date dictated: December 17, 2019
Date returned to Judge: January 8, 2020

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF WORKERS' COMPENSATION

01-09-2020

PROOF OF SERVICE

Minutes of Hearing and Summary of Evidence dated

December 17, 2019

Case Number:

DIETZ GILMOR LONG
BEACH

Law Firm, 249 E OCEAN BLVD STE 1000 LONG BEACH CA 90802,
MARIAH@DGCATTORNEYS.COM

Law Firm,

Served on the above parties

By:

On: January 9, 2020