

STATE OF CALIFORNIA
WORKERS' COMPENSATION APPEALS BOARD

Case No. 92 VNO 0233593

JORGE AVALOS

Applicant,

vs.

**FINDINGS AND AWARD AND
ORDER**

LANCE CAMPERS MANUFACTURING
COMPANY
Permissibly self-Insured
c/o ADJUSTCO

Defendants.

Finn & Wachtel, by Diana R. Marsel, attorneys for applicant

Kegel, Tobin & Truce, by Preeti G. Shaw, attorneys for defendant

An application having been filed herein; all parties having appeared and the matter having been regularly submitted, the Honorable BERNARD S. SANDOW, finds and awards and orders as follows:

FINDINGS OF FACT

1. Jorge Avalos, born May 15, 1954, did at Pacoima, California during the period May, 1990 through August 31, 1990 sustain injury to his psyche arising out of and occurring in the course of his employment as a shipping and receiving manager for Lance Campers Manufacturing Company who was then permissibly self-insured, c/o Adjustco.

2. It is found that applicant did not sustain injury to his back, neck, headaches and stomach.

3. Applicant's earnings were then sufficient to produce a compensation rate of \$266.00 per week for temporary disability and \$140.00 per week for permanent disability.

4. The injury caused temporary total disability beginning September 1, 1990 to and including November 9, 1990, less credit for periods applicant worked and/or was

STATE OF CALIFORNIA
WORKERS' COMPENSATION APPEALS BOARD

employed, according to proof.

5. It is found that applicant sustained no permanent disability due to his psyche injury.
6. It is found that applicant will not require future medical treatment.
7. It is found that applicant did not require self-procured medical treatment.
8. Applicant reasonable, actually and necessarily incurred medical legal expense to prove a contested case, payable \$475.00 to Nunez & Barrera; \$1,184.00 to Valley Family Medical Center; and \$469.00 to L. A. Portable Diagnostic Services, Inc.
- 9 Lien claims are Valley Family Medical Center, Advanced Psychological Testing Center/Kenneth C. Fischer, PH.D., \$1,375.00; Employment Development Department, \$2,027.14; Stress Recovery Center; Doctor Galloway; Doctor Geyer, \$1,075.00.
10. The reasonable value of the legal services rendered applicant's attorneys is the sum of twelve percent (12%) of all compensation awarded to the applicant.
11. Jurisdiction is reserved in the Board as to all liens of record.
12. Petition for Penalties for defendant's failure to provided medical treatment is denied.
13. Petition for Penalties that defendant failed to pay temporary disability is denied.

AWARD

AWARD IS MADE in favor of JORGE AVALOS against LANCE CAMPERS
MANUFACTURING COMPANY, permissibly self-insured, c/o ADJUSTCO as follows:

- a) Temporary disability indemnity in accordance with finding number 4, less

AVALOS
92 VNO 0233593

STATE OF CALIFORNIA
WORKERS' COMPENSATION APPEALS BOARD

twelve percent (12%), payable to applicant's attorneys, Finn & Wachtel, for legal services rendered, in accordance with finding number 10;


- b) Together with medical legal expense in accordance with finding number 8;
- c) Together with lien claims in accordance with finding number;
- d) Jurisdiction is reserved in the Board as to all lien claims.

ORDER

IT IS ORDERED that applicant's Petition for Penalties for defendant's failure to provide medical treatment is Denied.

IT IS FURTHER ORDERED that applicant's Petition for Penalties for defendant's failure to pay temporary disability to applicant is Denied.

Dated in Van Nuys, California July 8, 1993


BERNARD S. SANDOW, JUDGE
Workers' Compensation Appeals

Board

Served on all parties by mail as shown
on the Official Address Record effected
on above date By: C. Giannini

AVALOS
92 VNO 0233593

-3-

WCAB Case No. 92 VNO 0233593

JORE AVALOS

vs LANCE CAMPERS MFG. CO.
Permissibly Self-Insured
c/o ADJUSTCO, INC.

JUDGE:

BERNARD S. SANDOW

DATE:

7-8-93

OPINION ON DECISION

INJURY AOE/COE: Based on the medical report of Allen H. Lefstein, M.D., dated January 25, 1991, found to be the most credible and reliable and the portions of the injury testimony of applicant, believed and found credible, reliable and substantial evidence, it is found that applicant sustained injury arising out of and occurring in the course of employment from May, 1990 through August 31, 1990 to his psyche. Further, based on the medical report of Jeffrey A. Berman, M.d., dated August 13, 1991, found to be most credible and reliable, and applicant not carrying his burden of proof, it is found that applicant did not sustain injury arising out of and occurring in the course of employment from May, 1990 through August 31, 1990 to his back, neck, headaches and stomach.

OCCUPATION: Based on applicant's testimony and the stipulation of the parties, it is found that applicant, from May, 1990 through August 31, 1990, was employed as a shipping and receiving manager.

EARNINGS: Applicant's earnings were then sufficient to produce a compensation rate of \$266.00 per week for temporary disability and \$140.00 per week for permanent disability.

TEMPORARY DISABILITY: Based on the testimony of applicant and the medical report of Allen H. Lefstein, M.D., dated January 25, 1991, applicant is entitled to temporary disability payments for the period beginning September 1, 1990 to and including November 9, 1990, less credit for periods applicant worked and/or was employed, according to proof.

PERMANENT DISABILITY:ub Based on the substantial testimony of applicant on the issue of permanent disability and the medical report

of Allen H. Lefstein, M.D., dated January 25, 1991, applicant did not sustain permanent disability resulting from his psyche injury.

SELF-PROCURED MEDICAL TREATMENT: Based on the testimony of applicant and the medical reports of Allen H. Lefstein, M.D. and Jeffrey A. Berman, M.D., found to be most credible, reliable and convincing, applicant did not require medical treatment on account of this injury.

FUTURE MEDICAL TREATMENT: Based on the medical report of Allen H. Lefstein, M.d., applicant will not require future medical treatment.

MEDICAL LEGAL COSTS: Applicant reasonably, actually and necessarily incurred medical legal expense to prove a contested case, payable \$475.00 to Nunez & Barrera, \$1,184.00 to Valley Family Medical Center, and \$469.00 to L. A. Portable Diagnostic Services, Inc.

LIEN CLAIMS: Valley Family Medical Center, Advanced Psychological Testing Center/Kenneth /C. Fischer, PH.D., \$1,375.00; Employment Development Department, \$2,027.14; Stress Recovery Center; Doctor Galloway; Doctor Geyer, \$1,075.00.

ATTORNEYS' FEES: The reasonable value of the legal services rendered applicant's attorneys is the sum of twelve percent (12%) of all compensation awarded to the applicant.

OTHER: 1. The Board reserves jurisdiction as to all liens of record.

2. Applicant's petition for penalties for defendant's failure to provide medical treatment is Denied, based on the existing findings made herein.

3. Applicant's petition for penalties that defendant failed to pay temporary disability is Denied, it being found that defendant had genuine doubt as to their liability for benefits to this applicant.

BSS:cg

BERNARD S. SANDOW, JUDGE

