

STATE OF CALIFORNIA
WORKERS' COMPENSATION APPEALS BOARD

ALFRED CALDERAS,

Applicant,

vs.

**WESTERN WASTE INDUSTRIES;
 COMCO**

Defendants.

Case Nos. LA 631-035 & 633-380

**JOINT
 FINDINGS AND AWARD**

ALSCHULER, ALSCHULER, ALSCHULER & ALSCHULER
 By Walter Alschuler
 Attorneys for applicant

KEGEL, TOBIN & TRUCE
 BY Presetl G. Shar
 Attorneys for defendants

The above-entitled matter having been heard and regularly submitted, the Honorable **ROBERT Y. NAKAGAWA**, Workers' Compensation Judge, now makes his decision as follows:

FINDINGS OF FACT

- (1) **ALFREDO CALDERAS**, born October 20, 1958, did at Los Angeles, California on August 12, 1988 sustain an injury to his back, arising out of and occurring in the course of his employment as a truck mechanic helper
- (2) Average weekly earnings at injury were \$300.00 per week sufficient to produce a compensation rate of \$200.00 per week for temporary disability and \$140.00 per week for permanent disability.
- (3) The injury caused no temporary total disability.
- (4) The injury caused permanent disability of six percent equivalent to 18 weeks at \$140.00 per week, in the total sum of \$2,520.00 due to the August 1, 1988 injury.
- (5) There is no basis for apportionment.
- (6) Future medical treatment is not required to cure or relieve from the effects of this injury as prescribed by Dr. Berman, M.D., in his report dated February 25, 1991.

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- (7) The lien of South Gate Medical Clinic of \$24.25 for self-procured medical treatment is disallowed.
- (8) Applicant reasonably, actually and necessarily incurred expense for medical reports to prove a contested case, payable as follows:
 - South Gate Medical Group\$2,775.00
 - Pico Robertson Medical Group..... 1,443.75
 - LA Measurement-All 1,484.00
 - Beverly Hills Community Clinic.....1,544.81, and
 - Laris-Weinberg & Associates1,285.00
- (9) The reasonable value of the services of applicant's attorney is \$300.00 payable to Alschuler, Alschuler, Alschuler & Alschuler.

AWARD

AWARD IS MADE in favor of ALFREDO CALDERAS and against COMCO, payable as follows:

- (a) Permanent disability indemnity in accordance with Finding 4; less \$300.00 as attorney's fees payable to Alschuler, Alschuler, Alschuler & Alschuler, in accordance with Finding 9.
- (b) Payment of medical-legal costs in accordance with Finding 8 above.

Filed and Served by mail on: *H-w-a-v*
 On all parties on the WCI
 Official Address Record.
 By: *Virginia C. Mallari*
 VIRGINIA C. MALLARI

Robert Y. Nakagawa
 ROBERT Y. NAKAGAWA
 WORKERS' COMPENSATION JUDGE

LA 631-035 & LA 633-380
CALDERAS, Alfredo

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CASE NUMBERS LA 631035 & 633380

ALFREDO CALDERAS

vs

WESTERN WASTE INDUSTRIES; COMCO

Workers' Compensation Judge
Date of injury:

ROBERT Y. NAKAGAWA
August 1, 1988

OPINION ON DECISION

1. PART OF BODY INJURED (LA 631-035)

The defendant admitted August 1, 1988 injury to the back.

Based upon the December 23, 1991 report of Dr. Sullivan, the Court finds the applicant did not injure his psyche due to his injury of August 1, 1988.

2. INJURY AOE/COE (LA 633-380)

Based upon the credible testimony of Andre Arakian that the applicant did not complain about back pain and the February 25, 1991 report of Dr. Berman, the Court finds the applicant did not injure his back due to his employment from December 26, 1988 to 1989.

Based upon the December 23, 1991 report of Dr. Sullivan, the Court finds the applicant did not injure his psyche due to his employment from December 26, 1988 to 1989.

3. FURTHER MEDICAL TREATMENT

Based upon the February 25, 1991 report of Dr. Berman, the Court finds the applicant does not need further medical treatment.

4. SELF-PROCURED MEDICAL TREATMENT

Based upon the February 25, 1991 report of Dr. Berman, the Court disallows the lien of South Gate Medical Group of \$2,425 as

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unreasonable, because the treatment was incurred almost 2-1/2 years after the injury.

5. MEDICAL-LEGAL COSTS

The Court finds the applicant incurred the following reasonable medical-legal costs to prove a contested claim:

South Gate Medical Group.....	\$2,775.00
Pico Robertson Medical Group	1,443.75
LA Measurement - All	1,484.00
Beverly Hills Community Clinic	1,544.81
Laris-Weinberg & Associates	1,285.00

6. EARNINGS

Based upon the Employer's Report of Injury, the Court finds the applicant worked 60 hours per week at \$5.00 per hour totalling \$300.00 per week, resulting in a temporary disability compensation rate of \$200.00 per week and a permanent disability rate of \$140.00 per week.

7. TEMPORARY DISABILITY

Dr. Berman's February 25, 1991 report states the applicant became permanent and stationary within three (3) months of his August, 1988 incident. The applicant kept working from August 1, 1988 to December 28, 1989.

Dr. Gromis' March 21, 1991 report states the applicant became permanent and stationary on March 21, 1991.

The Court is of the opinion the applicant was able to return to work and did continue working and is entitled to no period of temporary disability.

**8. PERMANENT DISABILITY &
9. APPORTIONMENT**

Dr. Berman's February 25, 1991 report states the applicant's

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mid and low back subjective factors are occasional minimal.

Dr. Gromis' March 21, 1991 report states the applicant's work restrictions are midway between no heavy work and light work apportioned 0.60 to the August 6, 1988 (sic) injury and 0.40 to the December 26, 1988 to 1989 work-related activities.

The Court finds the applicant's permanent disability is midway between none and a preclusion from very heavy lifting entirely due to his August 1, 1988 injury (LA 631-035) and the following permanent disability rating formula applies:

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which is 18 weeks at \$140.00 per week totalling \$2,520.00 payable forthwith.

10. EMPLOYMENT DEVELOPMENT DEPARTMENT (EDD)

Since the Court found no period of temporary disability, the Employment Development Department lien, if any, is disallowed.

11. ATTORNEY'S FEES

The Court finds \$300.00 to be a reasonable attorney's fee.


ROBERT Y. NAKAGAWA

Workers' Compensation Judge

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