

*Kegel*  
*LB*

STATE OF CALIFORNIA  
DIVISION OF WORKERS' COMPENSATION

Case No. LBO 239814, 239815

FILOMENA ESPIRITU

vs.

ST. MARY MEDICAL CENTER,  
COMCO MANAGEMENT, INC.

Dated: February 15, 1994

GRAIWER & GOLDBERG, Attorneys for Applicant

KEGEL, TOBIN & TRUCE, Attorneys for Defendants

OPINION ON DECISION

These cases came to trial on August 4, 1993, October 25, 1993 and February 3, 1994, at which time testimony was heard from multiple witnesses both orally and by way of deposition. Reports, documents were identified as exhibits and admitted into evidence. Cases were consolidated for trial and Case LBO 239815 designated as the master file.

LBO 239815 (MF) AND LBO 239814: INJURY AOE-COE:

I find Applicant did not sustain injury arising out of and occurring in the course of her employment during her alleged continuous trauma from October 4, 1991 through October 4, 1992 (LBO 239815) and during an alleged specific date of July 1992, resulting in injuries to her psyche, neck, right shoulder, right knee, left hand, legs, cardio-vascular system and resulting headaches.

Applicant testified that in July 1992, she heard about a proposed lay-off. That up until July 1992 before she heard about the staff changes, she was happy at work. That she went through several, in-house interviews in other sections but no resulting offers were made and on October 11, 1992, the announced lay-off date, she was laid off and has not worked for anyone else since. That since October 4, 1992, she experienced headaches, loss of appetite, insomnia, measured high blood pressure on October 5, 1992 of 160/90 which resulted in her remaining off work at her doctor's suggestion. In addition, Applicant's headaches have become severe, is nervous, can't concentrate, has back pains and feels shakiness in her left knee and has loss of grip in her left hand. That at

times she feels pain in her abdomen and chest area, her balance is affected, gets tired easily and has poor energy.

Applicant testified that she loved working on the 3rd floor and didn't like the idea of a possible move from there. That it was unfair to transfer her to any other floor where she would have to learn new procedures and was not happy with that.

On the 2nd day of hearing, Applicant now states under direct examination that she considered her job as very stressful and felt emotional problems since 1990. But in cross-examination, Applicant stated that until July 1992, she was happy on the job, but after hearing about the lay-off rumors, she became scared. Applicant admitted that she did not have the highest seniority which was based on hours of work. Applicant admitted that they continued to try to place her and that a letter dated October 8, 1992 was received by her and the letter in effect states that they had been trying to contact her by phone but were unsuccessful to which Applicant added she was sick and could not call back.

Applicant was found by this Trier of Fact not to be credible. Trier of Fact was in a position to view all witnesses during their taking of testimony. In contrast, the testimony of Julianne Desmond, Maureen McHatton, Penelope Beay and Elaine Gluck proved most credible.

This finding is substantially supported by the better reasoned conclusions of Dr. Irwin Savodnik, (Psychiatrist) Dr. Israel Rottermann, (Orthopedist) and Dr. Robert McCauley, (Internist).

**MEDICAL-LEGAL:**

Defendant to adjust and/or pay all medical-legal liens of record with jurisdiction reserved by the Board.

All other issues are rendered moot.



Frank S. Falero  
Workers' Compensation Judge

FSF/lm

STATE OF CALIFORNIA  
DIVISION OF WORKERS' COMPENSATION

Case No. LBO 239814, 129815

FILOMENA ESPIRITU,

*Applicant*

vs.

ST. MARY MEDICAL CENTER,  
COMCO MANAGEMENT, INC.,

*Defendants.*

**FINDINGS AND AWARD  
AND ORDER**

GRAIWER & GOLDBERG, Attorneys for Applicant.

KEGEL, TOBIN & TRUCE, Attorneys for Defendants

An Application having been filed herein, all parties having appeared, and the matter having been regularly submitted for decision, the Honorable FRANK S. FALERO, Workers' Compensation Judge, makes his Findings and Award and Order as follows:

**FINDINGS OF FACT**

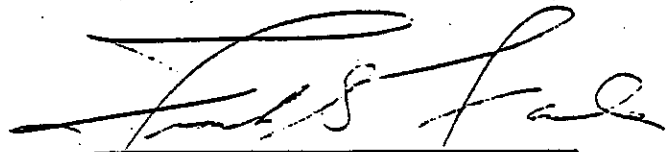
1. Applicant did not sustain an industrial injury arising out of and occurring in the course of her employment during an alleged continuous trauma from October 4, 1991 through October 4, 1992 and during an alleged specific date of July 1992.
2. Defendant to adjust and/or pay all medical-legal liens of record with jurisdiction reserved by the Board.
3. All other issues are moot.

AWARD

AWARD IS MADE in favor of FILOMENA ESPIRITU against COMCO MANAGEMENT, INC., of medical-legal costs pursuant to Finding No. 2 above.

ORDER

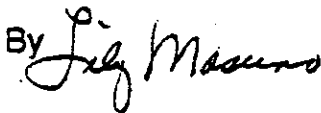
IT IS ORDERED that Applicant take nothing further.



Frank S. Falero  
Workers' Compensation Judge

Long Beach, California  
Served by mail on the parties listed on the  
Official Address Record

Dated: FEB 17 1994

By 

STATE OF CALIFORNIA  
DIVISION OF WORKERS' COMPENSATION

Case No. LBO 239250

ANIBAL HERRERA,

*Applicant*

vs.

RICHARD CROSS,  
TRANSAMERICA INSURANCE COMPANY,

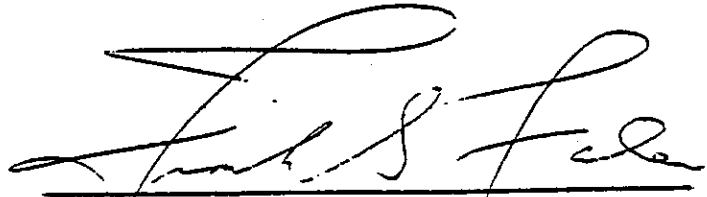
*Defendants.*

**ORDER**

GOOD CAUSE APPEARING,

Defendant's counsel and counsel for Wilshire Center Radiology at Conference Calendar of February 15, 1994, it appearing to the Trier of Fact that the Order of November 2, 1993 Vacating Findings and Order of October 8, 1993 was erroneously issued. It further appearing that the lien of Wilshire Center Radiology has been resolved.

IT IS HEREBY ORDERED that the Order of October 8, 1993 is reinstated with the sole exception as to the finding of the lien of Wilshire Center Radiology and said particular finding is stricken.



Frank S. Falero  
WORKERS' COMPENSATION JUDGE

Served by mail on the parties shown  
on the Official Address Record

Date: FEB 17 1994 By *Lily Masumoto*