

STATE OF CALIFORNIA  
WORKERS' COMPENSATION APPEALS BOARD

Case No. LAO 645729

JOSE HERNANDEZ,

*Applicant*

v.

LEMAN'S AUTO CENTER;  
TRANSAMERICA INSURANCE  
COMPANY;

*Defendants.*

**Findings and Order**

Hinden & Grueskin by Ronald J. Grueskin, Attorneys for Applicant

Kegel, Tobin & Truce by Dennis Triplett, Attorneys for Defendant, Transamerica Insurance Company

Jack H. Davidson by Brian Daniels, Attorneys for Employer LeMan's Auto Center

The above-entitled matter having been heard and regularly submitted, the Honorable Kacey J. Keating, Workers' Compensation Judge, now makes his decision as follows:

**FINDINGS OF FACT**

JOSE HERNANDEZ, born October 17, 1950 while employed as a painter's helper, at Los Angeles, California, on June 10, 1990 to January 4, 1991, by LeMans Auto Center, then insured as to workers' compensation liability by Transamerica Insurance Company did not sustain injury arising out of and occurring in the course of his employment to his respiratory systems, eyes, head, nervous system and psyche.

Page 2 - Hernandez,

**ORDER**

IT IS ORDERED that applicant take nothing by reason of his application filed herein on.

The issue of lien claims is ordered off calendar. The issue may be restored to calendar and the matter of the liens set for conference, by the filing of a petition, supporting documents and a Declaration of Readiness to Proceed.

Filed and Served by mail on: 4-11-94  
On all parties on the  
Official Address Record  
By: *Christina Susate*

*Kacey J. Keating*  
\_\_\_\_\_  
KACEY J. KEATING  
WORKERS' COMPENSATION JUDGE

STATE OF CALIFORNIA  
WORKERS' COMPENSATION APPEALS BOARD

JOSE HERNANDEZ,

*Applicant*

v.

LEMANS AUTO CENTER;  
TRANSAMERICA INSURANCE  
COMPANY;

*Defendants.*

Case No. LAO 658925

**Findings and Order**

Hinden & Grueskin by Ronald J. Grueskin, Attorneys for Applicant

Kegel, Tobin & Truce by Dennis Triplett, Attorneys for Defendant, Transamerica  
Insurance Company

Jack H. Davidson by Brian Daniels, Attorneys for Employer, LeMan's Auto Center

The above-entitled matter having been heard and regularly submitted, the Honorable  
Kacey J. Keating, Workers' Compensation Judge, now makes his decision as follows:

**FINDINGS OF FACT**

JOSE HERNANDEZ, born October 17, 1950, while employed as a  
painter's helper, at Los Angeles, California, on September 12, 1990, by LeMans Auto  
Center, then insured as to workers' compensation liability by Transamerica Insurance  
Company did not sustain injury arising out of and occurring in the course of his  
employment to his back, both shoulders, neck, nervous system and psyche.

**ORDER**

**IT IS ORDERED** that applicant take nothing by reason of his application filed herein .

The issue of lien claims is ordered off calendar. The issue may be restored to calendar and the matter of the liens set for conference, by the filing of a petition, supporting documents and a Declaration of Readiness fo Proceed.

Filed and Served by mail on: 4-11-94  
On all parties on the  
Official Address Record.

By: *Christine Duarte*

*Kacey J. Keating*  
\_\_\_\_\_  
KACEY J. KEATING  
WORKERS' COMPENSATION JUDGE

CASE NOS. LAO 645729  
LAO 658925

JOSE HERNANDEZ

-vs-

LEMANS AUTO CENTER;  
TRANSAMERICA INSURANCE  
COMPANY,

DATES OF INJURY:

JUNE, 1990 - JANUARY 4, 1991  
SEPTEMBER 12, 1990

WORKERS' COMPENSATION  
JUDGE:

KACEY J. KEATING

JOINT OPINION ON DECISION

INJURY AOE/COE

Mr. Jose Hernandez testified that he was hurt at work on September 12, 1990, while lifting or moving a large steel ramp. He told his supervisor, Mr. Altounian about the injury on the same day the injury happened and was ignored. Thereafter, Mr. Hernandez advised Mr. Altounian of various physical problems he was having approximately every other day. Mr. Altounian would ignore Mr. Hernandez and Mr. Altounian would become angry. Mr. Hernandez did not advise anybody else at work about his injuries because they already knew he was injured.

Mr. Hernandez testified that he was exposed to solvents at work. He also reported problems due to this exposure to Mr. Altounian, although it is not clear how often or when he first reported these problems to Mr. Altounian.

Mr. Hernandez later was involved in a car accident. Evidently, he did not report to the treating physician that he had had prior injuries at Lemans's.

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Some of Mr. Hernandez' testimony was contradictory, or he did not recall many things. He testified, for instance, that his headaches began after he left Leman's; yet, he indicated that he told Mr. Altounian that he had headaches. It was also not clear when Mr. Hernandez first reported problems due to chemical exposure, or how often it was reported.

I began with the presumption that the injuries were compensable, but inconsistencies in Mr. Hernandez' testimony weakened his case, in my opinion.

Mr. Hernandez apparently was exposed to solvent-based products in the work environment; yet, I think it not likely that an actual injury resulted from the exposure. My opinion is based on the impression of inconsistencies in Mr. Hernandez' testimony.

The preponderance of the evidence indicates that Mr. Hernandez was not injured at work.

Dated: 4-11-94

*Kacey J. Keating*  
KACEY J. KEATING  
WORKERS' COMPENSATION JUDGE

Filed and served by mail on April 11, 1994  
on parties shown on Official Address Record  
By: Christina Dusek