

STATE OF CALIFORNIA  
WORKERS' COMPENSATION APPEALS BOARD

Case No. SDO 311581

Abel Lopez

*Applicant*

vs.

Maria Duran, an individual, dba Farm Labor Contractor; Paula Insurance Co., in liquidation, by California Insurance Guarantee Association by its servicing facility, Intercare Insurance Services

*Defendant*

FINDINGS AND ORDER

Parties appearing at the time of trial were as follows:

For Applicant: Planas & Perez by Juan Naranjo  
For Defendant: Kegel, Tobin & Truce by D'Arcy T. Swartz

The above-entitled matter having been heard by and submitted for decision to the Honorable Nikki S. Udkovich, Workers' Compensation Administrative Law Judge, decision is made as follows:

FINDINGS OF FACT

1. Applicant, Abel Lopez, born May 12, 1958, while employed on May 22, 2002, as a farm worker, occupational group number 491, by Maria G. Duran, an individual, and doing business as Farm Labor Contractor, did not sustain an injury arising out of and in the course of his employment to his neck and back.
2. As there is no finding of industrial injury, no periods of temporary disability and no medical treatment is awarded.

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SDA

## OPINION ON DECISION

Abel Lopez (Lopez) claimed an injury on May 22, 2002 while picking up plastic containers filled with water. Lopez settled his case after trial and the matter proceeded on the outstanding lien claims.

It is determined that Lopez did not sustain an industrial injury as he was not a credible witness. After the injury, Lopez drove from a ranch in Caliz where he was working to Coachella. After driving two and a half hours, Lopez drove himself to Kennedy Memorial Hospital because of pain he was experiencing in his upper back and arms. However, there is no mention of an injury in the hospital records even though Lopez acknowledged that the nurse at the hospital was Spanish speaking. Instead, Lopez is treated for chest pain, has a cardiac work-up, and is given Zantac. After his hospital stay, he continues to work until the end of the season in June of 2002. Thereafter he collected unemployment until August 22, 2002. (SOE, page 12, lines 16-18)

Lopez testified that he did not know he was injured on May 22, 2002 until he went to a chiropractor at South Bay Medical & Chirotherapy in August of 2002 and the chiropractor told him he was injured. (SOE, page 8, lines 10-16) He collected state disability from August 29, 2002 through May 19, 2003. He then proceeded to treat, three times a week, in Calexico with this chiropractor, driving 85 miles one way for these treatments. When he was determined to be permanent and stationary, he collected unemployment in Arizona from May 2003 until October 2003. (SOE, page 12, lines 18-20)

The entire scenario as explained by Lopez was not believable. It appears that according to Lopez, it was the doctors at South Bay Chiropractic that suggested to him in August of 2002 that he was injured. (SOE, page 8, lines 10-16) If indeed Lopez sustained an injury, it is not believable that he would not have mentioned it to the physicians and staff at Kennedy Memorial Hospital. No orthopedic work-up was completed at that time.

As there is no finding of injury, there is no finding of temporary disability, and thus the lien of Employment Development Department is disallowed.

As there is no finding of injury, all medical treatment is disallowed.

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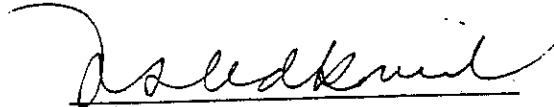
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ORDER

IT IS ORDERED THAT Abel Lopez did not sustain an injury on May 22, 2002.

IT IS FURTHER ORDERED THAT all liens are disallowed in accordance with Findings of Fact # 1 and #2.

Dated: 3/17/05



NIKKI S. UDKOVICH

WORKERS' COMPENSATION ADMINISTRATIVE LAW JUDGE

By: Yolanda Sandoval  
Served 3-18-05

Dated and filed in San Diego, California  
Service on parties as shown on the Official  
Address Record effected on above date.

A petition for reconsideration from this Decision shall be filed only at the San Diego District Office of the Workers' Compensation Appeals Board.