

Kepler

STATE OF CALIFORNIA
DIVISION OF WORKERS' COMPENSATION

Case No. LBO 262411, 259277

MARIA MENDOZA

vs.

MELDISCO/MELVILLE CORP.,
TRAVELERS INSURANCE CO.

Date of Injury: 8/22/91; 11/20/90 -11/2/91

OPINION ON DECISION

CASE NO. LBO 262411

PERMANENT DISABILITY:

This represents an admitted injury to the Applicant's head, right arm and abdomen. As indicated in the medical records, it appears as though her right arm condition resolved without permanent disability. As to the abdomen, it is acknowledged that she sustained a contusion which appears to be resolved. Applicant also has a hernia which was repaired in January of 1994. It does not appear as though the hernia is a result of the specific injury of August 22, 1991 as there are no confirming medical reports that indicate this condition existed until well after she left Defendant's employment despite Applicant's claims of abdominal pain. As to Applicant's head injury, she alleges that she suffers from headaches as a result of this incident. Although the various treating doctors in their reports speak at great length concerning her other problems, they do not focus on the headache condition. Dr. Kim, the QME for Applicant deferred consideration of the headaches to other specialties and this has been repeated by the other doctors reporting on behalf of the Applicant. Dr. Vincent Kent, M.D., reporting on behalf of Defendants, does not comment on her headaches in his discussion. Dr. Robert Rafael, a neurologist, who evaluated the Applicant on September 11, 1991 and notes her complaints of headaches. He felt her neurological examination was entirely within the normal limits and did not feel that further neurodiagnostic testing was necessary. He appears not to have felt that her headaches were not of much concern since he indicated her symptoms seems to respond to mild analgesics. At trial, the Applicant testified that she still has problems consisting of frequent headaches which occur two to three times every two weeks. She further testified that sometimes Tylenol would help get rid of the headaches but not always. Further, she doesn't know what causes headaches to come on but she does note that bending will increase the headaches. I felt this testimony is credible based upon the complaints stated in the medical reports. It is found that the Applicant does have permanent

disability. due to her headaches consisting of occasional slight to moderate pain. I have rated this disability as follows: 1-7-2-38-F-2-1:2
Permanent disability is found for 4-1/2 weeks at \$120.33 per week in the total sum of \$581.99.

FURTHER MEDICAL TREATMENT:

Based upon the lack of any medical reports that indicate that further medical treatment is required for any injuries to the parts of the body admitted, no further medical care is awarded.

LIENS:

Liens will be discussed with companion case below.

ATTORNEY FEES:

A reasonable attorney's fee is found to be \$87.00, payable from Applicant's award.

CASE NO LBO 259277:

This case relates to a continuous trauma injury to the spine, internal systems and a hernia which has been denied by Defendants.

As to the spine, it is clear that the Applicant does have significant lumbar complaints. Her complaints are verified by abnormal MRI and EMG and NVC studies. These complaints, however, do not become readily apparent until well after the Applicant has ceased employment with the Defendant. The Applicant has been less than credible with her descriptions to the doctors as to the work that she had to performed for the Defendant. At trial she testified that she would lift more than 30 pounds. She informed the doctors that she would have to lift weights from 30 to 65 pounds and that she had to help unload the trucks which delivered merchandise. Per the testimony of defense witness, Liberty Barnes, the heaviest weight which have to be lifted would be 30 pounds. I beleive that 30 pounds does in fact represent the heaviest that would be lifted by the Applicant. I do not believe that lifting 30 pounds weights at the frequency which I believe was required at the Defendant's place of business, would have resulted in the Applicant having the injury alleged. As to her internal systems, I do not believe that the evidence indicates that these difficulties were related to her employment. Further, there is no medical evidence to support thse problems as being industrial. As to Applicant's hernia condition, it is clear that she did in fact have a hernia. Again, the medical evidence however does not confirm that the hernia occurred during the period

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MENDOZA, MARIA

Case No. LBO 262411, 259277

of time while she was employed by Defendant. The diagnosis in early to mid 1992 is significantly remote to remove the Defendant for consideration as a cause particularly in light of those things that were going on in the Applicant's life. I do not feel that the Applicant has met her burden in proving any of the alleged injuries on the continuous trauma claim. On that basis no medical treatment is awarded nor is any temporary disability or permanent disability found or further medical treatment.

LIENS:

The Board file contains the lien from EDD, Seawest Physical Therapy, Homelink Pharmacy and the balance on the lien of Dr. Gary Stewart in the sum of \$150.00. All of the remaining liens listed as issues in the Minutes of Hearing have been resolved.

The lien of EDD in the sum of \$5,720.00, is disallowed as it related primarily to the hernia and the spine problem which have not been found compensable. As to the lien of Seawest Physical Therapy in the sum of \$705.00, this regards treatment provided upon referral by First Western Medical Group. It appears that these services relate to physical therapy to the lumbar spine. If the Court is correct in this assumption, then the lien is disallowed in full. On the other hand, if these services relate to treatment for the admitted injury, then Defendants are ordered to pay for the services pursuant to medical fee schedule. The lien of Homelink Pharmacy in the sum of \$114.65 relates to a sacral-lumbar belt prescribed by Dr. Wheeler at First Western. This lien clearly relates to the alleged spinal injury and is therefore disallowed in full. The last lien relating to Dr. Gary Stewart refers to an outstanding balance of \$150.00 on his lien for medical-legal charges. The total sum of his lien was \$700.00 which appears appropriate and therefore the balance of \$150.00 is ordered to be paid in full.



Charles J. Williams
Workers' Compensation Judge

CJW/lm

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MENDOZA, MARIA
Case No. LBO 262411, 259277

F&A 241.3

STATE OF CALIFORNIA
DIVISION OF WORKERS' COMPENSATION

Case No. LBO 259277

MARIA MENDOZA,

Applicant

vs.

MELDISCO/MELVILLE CORP.,
TRAVELERS INSURANCE COMPANY,

Defendants.

**FINDINGS AND AWARD
AND ORDER**

ROSE, KLEIN & MARIAS, 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 CHARLES J. WILLIAMS, Workers' Compensation Judge, makes his Findings and Award as follows:

FINDINGS OF FACT

1. Applicant did not sustain an industrial injury arising out of and occurring in the course of her employment as alleged herein.
2. The lien of EDD in the sum of \$5,720.00 is disallowed.
3. The lien of Homelink Pharmacy in the sum of \$114.65 is disallowed in full.
4. The lien of Dr. Gary Stewart of \$150.00 is ordered paid in full.
5. The lien of Seawest Physical Therapy is disallowed as it relates to treatment for the lumbar spine. If these services relate to treatment for the admitted injury, then Defendants are ordered to pay for the services pursuant to medical fee schedule.

AWARD

AWARD IS MADE in favor of MARIA MENDOZA against TRAVELERS INSURANCE COMPANY of the lien of Dr. Gary Stewart pursuant to Finding No. 4; together with the lien of Seawest Physical Therapy pursuant to Finding No. 5 above.

ORDER

IT IS ORDERED that Applicant take nothing further.



Charles J. Williams
Workers' Compensation Judge

Long Beach, California
Served by mail on the parties listed on the
Official Address Record
Dated: APR 19 1996 By

STATE OF CALIFORNIA
DIVISION OF WORKERS' COMPENSATION

Case No. LBO 262411

MARIA MENDOZA,

Applicant

vs.

MELDISCO/MELVILLE CORP.,
TRAVELERS INSURANCE COMPANY,

Defendants.

FINDINGS AND AWARD

ROSE, KLEIN & MARIAS, 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 CHARLES J. WILLIAMS, Workers' Compensation Judge, makes his Findings and Award as follows:

FINDINGS OF FACT

1. MARIA MENDOZA, born DECEMBER 28, 1967, while employed AUGUST 22, 1991, as SALES CLERK, by MELDISCO MELVILLE, insured by TRAVELERS INSURANCE COMPANY, sustained injury arising out of and occurring in the course of said employment to her head, right arm and abdomen.
2. Applicant's earnings were \$194.00 per week.
3. Applicant has been adequately compensated for all periods of temporary disability.
4. Said injury caused permanent disability of 1-1/2%, equivalent to 4-1/2 weeks at \$120.33 per week in the total sum of \$581.99.
5. There is not need for medical treatment to cure or relieve from the effects of said injury.

6. All liens are discussed in companion case.

7. The reasonable value of the services of Applicant's attorney is \$87.00.

A W A R D

AWARD IS MADE in favor of MARIA MENDOZA against TRAVELERS INSURANCE COMPANY of permanent disability indemnity pursuant to Finding No. 4 above, and less attorney fees pursuant to Finding No. 7.



Charles J. Williams
Workers' Compensation Judge

Long Beach, California

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

Dated: APR 19 1996

By *Judy Masuno*