

COPY ^{WST}

STATE OF CALIFORNIA
DIVISION OF WORKERS' COMPENSATION

Case No. MON 207-462

PEDRO QUIJADA,

Applicant

vs.

THE BEVERLY HILTON HOTEL;
ARGONAUT INSURANCE COMPANY
CNA INSURANCE COMPANY,

Defendants.

**FINDINGS AND ORDER
FOR MEDICAL-LEGAL COSTS
ONLY
and
ORDERS**

The above-entitled matter having been heard and regularly submitted,
The Honorable YOSH YAMANAKA, Workers' Compensation Judge, now
finds and orders as follows:

FINDINGS OF FACT

1. Pedro Quijada, born July 5, 1952, while employed as a dish washer,
Group 21, at Beverly Hills, California, from January 10, 1995 - January 10, 1996,
by The Beverly Hilton Hotel, then insured as to workers' compensation
liability by Argonaut Insurance Company for the period January 10, 1996 and
continuing and CNA Insurance Company for the period January 1, 1995
through January 1, 1996, did not sustain injury arising out of and occurring in
the course of his employment to his psyche.

2.- Applicant reasonably, actually and necessarily incurred medical-
legal expenses to prove a contested claim payable as follows: Christina Arana
& Associates in the sum of \$338.00, less credit for prior payments made; and
Medi-Records in the sum \$199.82. The lien claim of Bloch Medical Clinic will
be disallowed pursuant to Labor Code Sections 4628(b) and (e).

3. All other issues are moot.

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1 AWARD IS MADE in favor of PEDRO QUIJADA against
2 ARGONAUT INSURANCE COMPANY and CNA INSURANCE COMPANY,
3 payable as follows;

4 (a) Reimbursement for medical-legal expense in the amount of \$338.00
5 payable to Christina Arana & Associates, less credit for prior payments made;
6 and Medi-Records in the amount of \$199.82.

7 ORDERS

8 NOW, THEREFORE, IT IS ORDERED that applicant take nothing
9 further in this case.

10 IT IS FURTHER ORDERED that the lien claim of Bloch Medical Clinic
11 be, and the same hereby is disallowed pursuant to Labor Code Sections 4628(b)
12 and (e).

13 Dated: 2/24/98

14
15 Yosh Yamana
16 YOSH YAMANAKA
17 WORKERS' COMPENSATION JUDGE

18 Date: 2/27/98

19 Served by mail on persons shown
20 on the Official Address Record.

21 By: Delia Morales

22 Delia Morales
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27 PEDRO QUIJADA
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CASE NUMBER MON 207-462

PEDRO QUIJADA,

vs.

THE BEVERLY HILTON HOTEL;
CNA INSURANCE CO.;
ARGONAUT INS. CO.,

DATE OF INJURY:
1/10/95-1/10/96

WORKERS' COMPENSATION JUDGE:

YOSH YAMANAKA

OPINION ON DECISION

INJURY AOE/COE:

Applicant alleges injury to his psyche while working as a dishwasher from 1/10/95 through 1/10/96. He was not a credible witness and appears to have overreacted to good faith personnel actions which he brought upon himself. Assistant Steward Ricardo Magana probably characterized Applicant most accurately and succinctly when he testified that, "Applicant was often argumentative and would get mad when told what to do." For instance, he filed a grievance after Executive Chef Caner asked him to wipe down the refrigerator because "it was not his job" as a dish washer. He filed another grievance when Executive Chef Caner demanded that he pick up the ice that he had spilled on the floor. In a similar vein, he alleged that co-workers and supervisors had falsely accused him of working too slowly, although he admittedly fell asleep once in the locker room. His claim of false accusations was rebutted by Asst. Steward Ricardo Magana, who credibly testified that, after receiving complaints about Applicant disappearing while on duty, he "investigated and learned that those complaints were well-founded."

Applicant admitted that he had a 19-year-old daughter who needs around-the-clock care for her microencephaly, a brother who died of alcoholism in 1992, a second brother who died in a bus accident in 1994 and a third brother who died of cancer in 1995. Incredibly, the deaths of his brothers and his daughter's handicap have "never bothered him," although it did bother him when Executive Chef Caner told him to "get the shit off the floor" and when his co-workers accused him of working too slowly. Thus, even if Labor Code § 5402 were applicable, any presumption of compensability would have been rebutted by Applicant's lack of credibility, and the Court finds that he did not sustain industrial injury to his psyche.

LIABILITY FOR MEDICAL-LEGAL EXPENSE:

Christina Arana & Associates will be allowed \$210 for interpretation on 9/17/97 and \$128 for interpretation on 11/19/97, less credit for prior payment.

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Medi-Records will be allowed \$84.65 for copying at Kaiser and \$115.17 for copying at Beverly Hills Industrial Clinic.

Bloch Medical Clinic purportedly administered psychological testing, but its report fails to provide the name and credentials of the person administering the tests. As such, the lien of Bloch Medical will be disallowed, pursuant to Labor Code § 4628(b) and (e).

OTHER ISSUES:

All other issues are moot.



YOSH YAMANAKA
WORKERS' COMPENSATION JUDGE

YY:dm