

STATE OF CALIFORNIA  
DIVISION OF WORKERS' COMPENSATION

WTF

**Martin Ramirez-Hernandez**

*Applicant*

Vs.

**Pearson Ford, Permissibly Self-Insured,  
c/o Intercare Insurance,**  
*Defendants.*

**Case No. LBO 0379247**

**FINDINGS AND ORDER**

Law Offices of Johnny Ng, by Johnny Ng  
Attorney for Applicant

Law Offices of Kegel, Tobin & Truce, by W. Joseph Truce  
Attorney for Defendant


An application having been filed herein, all parties having appeared, and the matter having been regularly submitted for decision, the Honorable John Payne, Workers' Compensation Administrative Law Judge, makes his Findings and Order as follows:

**FINDINGS OF FACT**

1. Martin Ramirez-Hernandez born January 24, 1963 while employed as a laborer on March 16, 2006 at San Diego, California, by Pearson Ford did not sustain injury to his neck, low back, and hernia arising out of and occurring in the course of the employment.
2. It is found that the claim is barred per Labor Code Section 3600(a)(10).

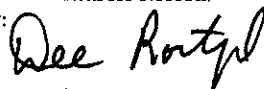
**ORDER**

**IT IS ORDERED** that applicant take nothing by reason of his claim LBO 0379247.

  
JOHN PAYNE  
WORKERS' COMPENSATION  
ADMINISTRATIVE LAW JUDGE

Filed and Served by mail on  
all parties as shown on the  
Official Address Record.

By:



Date: 10-9-07

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CASE NO. LBO 379247

MARTIN RAMIREZ-  
HERNANDEZ

-vs-

PEARSON FORD, PSI c/o  
INTERCARE INSURANCE

WORKERS' COMPENSATION  
ADMINISTRATIVE LAW JUDGE: JOHN PAYNE  
DATED:

OPINION

INJURY AOE/COE:

Applicant claims to have injured his back on March 16, 2006 as a result of lifting 80# of spark plugs in a trash can. He further claims to have reported the injury to his supervisor, Ruben Perez, on multiple occasions.

Applicant was terminated on April 12, 2006. He was seen at human resources on May 25<sup>th</sup> and was given a claim form. Defendant asserts that the claim is barred per Labor Code §3600(a)(10).

I found the testimony of Ruben Perez and John Lynch to be more credible than the testimony of applicant. Applicant was a satisfactory worker until problems with his son disrupted his life and apparently were causing sleep problems.

Applicant was suspended for 3 days for sleeping on duty. He was terminated because he did not return to work. Applicant did not dispute that he was suspended and gave no explanation why he did not return to work or call.

**I find that defendant has carried its burden to prove that applicant presented no claim of industrial injury prior to his termination. The claim is barred per Labor Code §3600(a)(10).**



JOHN PAYNE

Workers' Compensation Administrative Law Judge