

CASE NUMBER SBR 260296

ATENODORO HERNANDEZ

VS.

PGA WEST CO.;
ZURICH AMERICAN
INSURANCE COMPANY;

WORKERS' COMPENSATION JUDGE:

CHARLES A. REGNELL

OPINION OF JUDGE ON DECISION

An expedited hearing was requested by the applicant's counsel on October 13, 1995 claiming a dispute on entitlement to medical treatment per Labor Code §4600 and a dispute on entitlement to temporary disability. The explanation was noted that the applicant's attorney changed treating doctors per Labor Code §4600. Defendants have refused to honor applicant's choice and are interfering with medical treatment. This request is signed by Anthony C. Caronna, but is not signed by the applicant himself, Mr. Hernandez.

An expedited hearing was scheduled for November 8, 1995 at 8:30 a.m. Consistent with the Minutes of Hearing an appearance was made at that time by Anthony Madrigal for the offices of Anthony Caronna and by Mr. Fred Stevens of Kegel, Tobin and Truce on behalf of the defendant, Zurich Insurance Company. Attorney Madrigal stated that the defendants had authorized a change of treating physicians from Dr. Cunningham to Dr. Platt, and that the applicant was not prepared to proceed with respect to the issue of temporary disability that had been claimed.

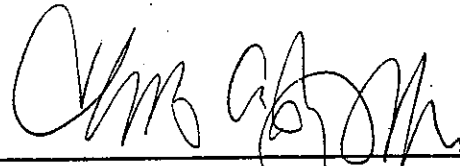
Counsel for defendant argued that consistent with the rehabilitation progress report from Western Rehab, dated 10/9/95, the defendants had clearly authorized an examination and treatment with Dr. Platt, with the first appointment having occurred on 10/6/95, one week before Attorney Caronna's office submitted their request for expedited hearing. It is the opinion of the undersigned that all that Attorney Caronna's office would have had to have done on 10/13/95 was to telephone to the defendant carrier, telephone to their client, or telephone Dr. Platt's

office, any of which would have produced the information that the change in treating physician had been authorized and an examination and treatment were proceeding.

Counsel for the defendant offered a Motion that costs and sanctions be assessed against the applicant's attorney under Labor Code §5813. The Workers' Compensation Judge concludes that the actions of the applicant's attorney were an abuse of the expedited hearing process and frivolous within the context of Labor Code §5813.

Accordingly, a \$250.00 sanction is warranted against Attorney Caronna in addition to reimbursing the defendant for costs in an amount to be determined upon the defendants submitting an itemization of costs associated with their appearing at the Workers' Compensation Appeals Board on November 8, 1995.

It should also be noted that the trial calendar and expedited hearing calendar in San Bernardino is very heavy. On Wednesday, November 8, 1995, in addition to the aforementioned expedited hearing, this Workers' Compensation Judge was scheduled for six (6) trials, 2 of which proceeded to actual testimony. Frivolous actions by such as the applicant's attorney compound the problem of this heavy Board calendar and contribute to a delay in the extension of benefits to all applicants.



CHARLES A. REGNELL,
WORKERS' COMPENSATION JUDGE

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