

INTER-OFFICE MEMORANDUM

TO: ALL ATTORNEYS/ALL OFFICES/CLIENTS
FROM: W. Joseph Truce
DATE: June 20, 2002
RE: TAKE NOTHING ON INITIAL AGGRESSOR CASE

Chuck Maki of our Ventura office has obtained the enclosed Take Nothing Award from Judge Bruce M. Lang out of the Appeals Board office in Grover Beach on the **initial aggressor defense**.

In this case the applicant took exception as being described with the word "bitch" by a co-employee and in response hit the co-employee in the back.

The co-employee retaliated "**by turning around and pushing applicant, causing her injury when she fell . . .**"

Judge Lang found that the applicant initiated the physical altercation that resulted in the applicant's injury and therefore compensation for the injury was barred by Labor Code §3600(a)(7).

WJT:wf

Enclosure- Opinion on Decision and F&A Alyson Goodwin v. WestAmerica Bank

STATE OF CALIFORNIA
WORKERS' COMPENSATION APPEALS BOARD

Case No. GRO 0025397

ALYSON GOODWIN,

Applicant

vs.

WESTAMERICA BANK;
LUMBERMAN'S UNDERWRITING
ALLIANCE,

Defendants.

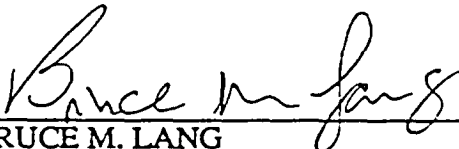
FINDINGS OF FACT

The above-entitled matter having been heard by and submitted for decision to BRUCE M. LANG, Workers' Compensation Administrative Law Judge, decision is made as follows:

FINDINGS OF FACT

1. Applicant is not entitled to compensation for her injury that occurred while employed by Westamerica Bank in January 29, 2001, because the injury arose out of an altercation in which she was the initial physical aggressor.

The remaining issues are moot.



BRUCE M. LANG
Workers' Compensation Administrative Law Judge
Workers' Compensation Appeals Board

A Petition for Reconsideration from this decision shall be filed only at the Grover Beach district office of the Workers' Compensation Appeals Board.

DATE: 5-24-02

DATED AND FILED AT GROVER BEACH, CALIFORNIA.

Friday, May 24, 2002

SERVICE ON PARTIES AS SHOWN ON THE
OFFICIAL ADDRESS RECORD EFFECTED
ON ABOVE DATE

By: 

N. Dorfman

E. CHARLES MAKI

MAY 28 2002

ALYSON GOODWIN

vs. WESTAMERICA BANK;
LUMBERMAN'S UNDERWRITING
ALLIANCE

CASE NO: GRO 25397

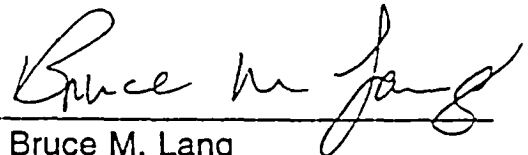
OPINION ON DECISION

INJURY

It is found the applicant is not entitled to compensation for her injury that occurred while employed by Westamerica Bank on January 29, 2001, because the injury arose out of an altercation in which she was the initial physical aggressor. Labor Code section 3600, subsection (a)(7).

The facts are not in dispute. The applicant and a co-employee, Richard Bishop, were employed as bank tellers by defendant. On the morning of January 29, 2001, while he was standing at the teller counter and applicant was seated at a desk behind the counter, Bishop used the word 'bitch' in reference to the applicant. In response the applicant left her desk and approached Bishop from behind and hit him in the back. Bishop retaliated by turning around and pushing applicant, causing her injury when she fell. The applicant initiated the physical altercation that resulted in her injury. Therefore, compensation for the injury is barred by section 3600(a)(7).

The remaining issues are moot.



Bruce M. Lang
Worker's Compensation
Administrative Law Judge