

**WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA**

ABAS GORBANWAND, *Applicant*

vs.

**PACIFIC GIS, INC., dba ;
OAK RIVER INSURANCE COMPANY, administered by
BERKSHIRE HATHAWAY HOMESTATE COMPANIES, *Defendants***

**Adjudication Number: ADJ10836918
Santa Ana District Office**

**OPINION AND ORDER
DENYING PETITION FOR
RECONSIDERATION**

Defendant seeks reconsideration¹ of the Findings and Award (F&A) issued on May 15, 2025 by the workers' compensation administrative law judge (WCJ). Therein, the WCJ found, in pertinent part, that on March 21, 2024, the applicant and defendant executed a Compromise and Release (C&R) which provided at page 6 of 9, paragraph 7 for a gross settlement amount of \$110,000.00 from which the sum of \$17,689.48 was to be deducted for permanent disability advances through "date of order approving" and that the permanent disability advances properly deducted from the gross settlement amount of the C&R is limited to \$17,689.48.

Defendant contends that it is entitled to take credit for all permanent disability advances paid to applicant before the Order Approving Compromise and Release issued, totaling \$24,834.88.

We have received an Answer from applicant. The WCJ filed a Report and Recommendation (Report) on the Petition for Reconsideration recommending that we deny reconsideration.

We have considered the allegations of the Petition for Reconsideration, the Answer, and the contents of the report of the WCJ with respect thereto. Based on our review of the record, and for

¹ Commissioners Lowe & Sweeney, who were on the panel that issued a prior decision in this matter, no longer serve on the Appeals Board. Other panelists were substituted in their place.

the reasons stated in the WCJ's Report and Opinion on Decision, which are both adopted and incorporated herein, we will deny reconsideration.

I.

Preliminarily, we note that former Labor Code² § 5909 provided that a petition for reconsideration was deemed denied unless the Appeals Board acted on the petition within 60 days from the date of filing. (Lab. Code, § 5909.) Effective July 2, 2024, section 5909 was amended to state in relevant part that:

- (a) A petition for reconsideration is deemed to have been denied by the appeals board unless it is acted upon within 60 days from the date a trial judge transmits a case to the appeals board.
- (b)
 - (1) When a trial judge transmits a case to the appeals board, the trial judge shall provide notice to the parties of the case and the appeals board.
 - (2) For purposes of paragraph (1), service of the accompanying report, pursuant to subdivision (b) of Section 5900, shall constitute providing notice.

Under section 5909(a), the Appeals Board must act on a petition for reconsideration within 60 days of transmission of the case to the Appeals Board. Transmission is reflected in Events in the Electronic Adjudication Management System (EAMS). Specifically, in Case Events, under Event Description is the phrase "Sent to Recon" and under Additional Information is the phrase "The case is sent to the Recon board."

Here, according to Events, the case was transmitted to the Appeals Board on June 16, 2025 and 60 days from the date of transmission is August 15, 2025. This decision was issued by or on August 15, 2025, so that we have timely acted on the petition as required by section 5909(a).

Section 5909(b)(1) requires that the parties and the Appeals Board be provided with notice of transmission of the case. Transmission of the case to the Appeals Board in EAMS provides notice to the Appeals Board. Thus, the requirement in subdivision (1) ensures that the parties are notified of the accurate date for the commencement of the 60-day period for the Appeals Board to act on a petition. Section 5909(b)(2) provides that service of the Report and Recommendation shall be notice of transmission.

² All further references are to the Labor Code unless otherwise noted.

Here, according to the proof of service for the Report and Recommendation by the WCJ, the Report was served on June 16, 2025, and the case was transmitted to the Appeals Board on June 16, 2025. Service of the Report and transmission of the case to the Appeals Board occurred on the same day. Thus, we conclude that the parties were provided with the notice of transmission required by section 5909(b)(1) because service of the Report in compliance with section 5909(b)(2) provided them with actual notice as to the commencement of the 60-day period on June 16, 2025.

II.

In addition to the analysis set forth in the WCJ's Report, we observe the following. The legal principles governing compromise and release agreements are the same as those governing other contracts. (*Burbank Studios v. Workers' Comp. Appeals Bd. (Yount)* (1982) 134 Cal.App.3d 929, 935 [47 Cal.Comp.Cases 832].) For a compromise and release agreement to be effective, the necessary elements of a contract must exist, including an offer of settlement of a disputed claim by one of the parties, and an acceptance by the other. (*Id.*) There can be no contract unless there is a meeting of the minds, that is, the parties must mutually agree upon the same terms and/or conditions. (Civ. Code, §§ 1550, 1565, 1580; *Sackett v. Starr* (1949) 95 Cal.App.2d 128; *Sieck v. Hall* (1934) 139 Cal.App.279, 291; *American Can Co. v. Agricultural Ins. Co.* (1909) 12 Cal.App.133, 137.) Further, stipulations such as those in a compromise and release are binding on the parties unless, on a showing of good cause, the parties are given permission to withdraw from their agreements. (*County of Sacramento v. Workers' Comp. Appeals Bd. (Weatherall)* (2000) 77 Cal.App.4th 1114, 1121 [65 Cal.Comp.Cases 1].)

"Good cause" to set aside stipulations depends on the facts and the circumstances of each case and includes mutual mistake of fact, duress, fraud, undue influence, and procedural irregularities. (*Johnson v. Workers' Comp. Appeals Bd.* (1970) 2 Cal.3d 964, 975 [35 Cal.Comp.Cases 362]; *Santa Maria Bonita School District v. Workers' Comp. Appeals Bd.* (2002) 67 Cal.Comp.Cases 848, 850 (writ den.); *City of Beverly Hills v. Workers' comp Appeals Bd. (Dowdle)* (1997) 62 Cal.Comp.Cases 1691, 1692 (writ den.); *Smith v. Workers' Comp. Appeals Bd.* (1985) 168 Cal.App.3d 1160, 1170 [50 Cal.Comp.Cases 311].) However, when "there is no mistake but merely a lack of full knowledge of the facts, which . . . is due to the failure of a party to exercise due diligence to ascertain them, there

is no proper ground for relief.” (*Huston v. Workers’ Comp. Appeals Bd.* (1979) 95 Cal.App.3d 856, 866 [44 Cal.Comp.Cases 798] quoting *Harris v. Spinall Auto Sales, Inc.* (1966) 240 Cal.App.2d 447.)

As observed by the WCJ, defendant drafted the compromise and release. (Report, at p. 3.) Although defendant may have intended to take credit for the \$24,834.88 in permanent disability advances, there is insufficient evidence to support a finding that applicant fraudulently induced defendant into entering the compromise and release because applicant returned the partially executed compromise and release to defendant on March 21, 2024. Per the Petition, the defendant executed the compromise and release on March 21, 2024 and returned it to applicant’s attorney for a walk through of the settlement document. (Petition, at p. 3:11-12.)

On March 21, 2024, before executing the settlement document, defendant had both the obligation and the opportunity to ensure that the written terms of the settlement accurately reflected its understanding of the settlement agreement. Thus, defendant had the opportunity to contact applicant’s counsel regarding the additional monies to be credited, and update the compromise and release settlement document accordingly prior to its approval. Having failed to do so, we agree with the WCJ that the permanent disability advances properly deducted from the gross settlement amount of the C&R is limited to \$17,689.48.

For the foregoing reasons,

IT IS ORDERED that the Petition for Reconsideration is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ LISA A. SUSSMAN, DEPUTY COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

August 15, 2025

SERVICE MADE ON THE ABOVE DATE ON THE PERSONS LISTED BELOW AT THEIR ADDRESSES SHOWN ON THE CURRENT OFFICIAL ADDRESS RECORD.

**ABAS GORBANWAND
MEHR & ASSOCIATES
HALLETT, EMERICK, WELLS & SAREN**

SL/abs

I certify that I affixed the official seal of the
Workers' Compensation Appeals Board to this
original decision on this date. *abs*

STATE OF CALIFORNIA
Division of Workers' Compensation
Workers' Compensation Appeals Board

CASE NUMBER: ADJ10836918

ABAS GORBANWAND

-vs.-

**BERKSHIRE HATHAWAY
PASADENA;**

**WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE: Nate Halprin**

DATE: June 16, 2025

REPORT AND RECOMMENDATION
ON PETITION FOR RECONSIDERATION

I
INTRODUCTION

1. Applicant's Occupation: Driver
Applicant's Age: 52 (on date of injury)
Date of Injury: January 13, 2017
Parts of Body Injured: lower back and neck
2. Identity of Petitioner: Defendant Oak River Insurance Company administered by Berkshire Hathaway
Homestate Companies
Timeliness: Timely
Verification: Verified
3. Date of Issuance of Findings & Award: May 15, 2025
4. Petitioner's Contentions: The Defendants contend that: (1) Per the Order, Decision or Award, the Board acted without or in excess of its powers; (2) That the evidence does not justify the Findings of Fact; (3) That the findings of fact do not support the Award.

II
FACTS

The parties settled this matter by Compromise and release. (Compromise and Release, dated 3/21/2024, EAMS Doc ID#77776796.)

The Compromise and Release was signed by all parties on March 21, 2024. (Compromise and Release, dated 3/21/2024, page 8, EAMS Doc ID#77776796.) One among many issues being settled, over which there was a serious dispute, was Permanent Disability. The Compromise and Release specified the gross settlement amount (\$110,000) from which a deduction (\$17,689.48) was being made for "...permanent disability advances through DATE OF ORDER APPROVING..." The parties initialed next to that issue on the settlement document, acknowledging the dispute concerning permanent disability was being settled "...to avoid the costs, hazards and delays of further litigation..." The Compromise and Release also specified PERMANENT DISABILITY INDEMNITY PAID \$17,689.48 Weekly rate \$290.00 Period(s) Paid January 5, 2023, End Date April 21, 2023.

There is no contention that there were any permanent disability advances or payments made after the Order Approving Compromise and Release.

Otherwise stated: 1) The Compromise and Release addendum provided defendants were being given credit for all permanent disability advances, both before and after the execution of the compromise and release; 2) The Compromise and Release specified it was a settlement of disputed issues, including a dispute over permanent disability advances; 3) The Compromise and Release specified the amount of permanent disability advances to be deducted (\$17,689.48) and that the amount represented the amount to be credited through the date of the Order Approving Compromise and Release; 4) There were no further permanent disability advances made after the March 22, 2024, Order Approving Compromise and Release.

Defendants paid the Order Approving Compromise and Release, taking credit not for \$17,689.48, but rather for \$24,834.88. Applicant filed a Declaration of Readiness alleging underpayment. (Declaration of Readiness dated 5/22/2024, EAMS Doc ID#52044691.) The matter advanced through trial and stood submitted for decision on April 16, 2025. (Minutes of Hearing/Summary of Evidence 4/16/2025, EAMS Doc ID#79089975.). The limited issues for determination were: 1) Whether the Compromise and Release could be rescinded based on mutual mistake of fact; 2) If not, whether \$17,689.48 or \$24,834.88 was the proper amount to be credited to Defendants for permanent disability advances. (Minutes of Hearing/Summary of Evidence 12/12/2024, page 2:14-18, EAMS Doc ID #78680659.)

At trial, defense argued that they actually paid \$24,834.88 in permanent disability advances prior to the Order Approving Compromise and Release, and that it was the intent of the parties and their respective counsel that \$24,834.88 be deducted as permanent disability advances. Defendant called Applicant as a witness, conducting examination under California Evidence Code §776. The Applicant was the only witness to testify. Applicant's un rebutted testimony included his understanding that only \$17,689.48 was to have been deducted for permanent disability advances. (Minutes of Hearing/Summary of Evidence 4/16/2025, page 4:21-25, EAMS Doc ID#79089975.).

The language of the Compromise and Release specified the precise amount of permanent disability advice to be credited and the period during which they were paid. The express language of the Compromise and Release quantified the permanent disability advances "through DATE OF ORDER APPROVING" which were to be deducted, specifying \$17,689.48. There was nothing patently unusual about a settlement being a mid-road amalgam with the parties compromising their respective positions on various issues, including credit claimed for permanent disability advances.

Defense contends that several months transpired between transmittal of the proposed Compromise and Release by defense counsel and return of it to defense counsel. Defense contends that additional permanent disability advances were made during that hiatus, representing the difference between \$17,689.48 and \$24,834.88. By way of further argument, defense counsel argued at trial that there was an understanding among counsel for the parties, that the additional permanent disability advances, beyond those expressly set forth in the Compromise and Release, were also to be deducted. Defense counsel offered no testimony in support of that proposition.

Defendants filed a Petition to Set-Aside Compromise and Release (Petition to Set Aside Compromise and Release, 11/7/2024, EAMS Doc ID# 54803907.) Therein, defendants contend "...The parties discussed the case and reached a settlement agreement which was put in writing in November 2023 with Applicant's counsel, Michelle Beshore. The discussion included Applicant's attorney asking about the amount of PDAs to date. There was no question about the amount of PDAs that would be deducted from the settlement, but the amount of PDAs provided. It was the parties' agreement that PDAs would be deducted from the settlement. Based on the agreement, the settlement was sent to Applicant's attorney's office for the Applicant to review and sign. As noted above, the Applicant did not sign the settlement until four months later..." (Petition to Set Aside Compromise and Release, 11/7/2024, page 5:14-28, EAMS Doc ID# 54803907.)

In its Findings and Opinion, the Court denied the Petition to Set Aside the Compromise and Release, citing California Labor Code Section 5804 and noting "...No award of compensation shall be rescinded, altered or amended after five years from the date of the injury except upon a petition by a party in interest filed within such five years..." (California Labor Code Section 5804.) The Court also determined that the proper amount of permanent disability advances to be credited to defendants was \$17,689.48.

The denial of the Petition to Set-Aside the Compromise and Release is not challenged by defendants on Reconsideration. The Court's determination of the amount of permanent disability advances to be credited is challenged.

III

DISCUSSION

Defendants authored the Compromise and Release which was signed by the parties March 21, 2024. The Compromise and Release submitted for approval March 22, 2024, is typed, except for initials and signatures affixed. (Compromise and Release dated 3/21/2024, EAM Doc ID#77776796.) The parties to the settlement were represented by experienced counsel.

Applicant contends the proper credit relating to permanent disability advances is \$17,689.48. Defendant claims a right to credit for permanent disability advances in the amount of \$24,834.88. The disparity is explained by defense as arising from payments made by defendant during the period between the original transmission of the C&R to Applicant's counsel in November 2023, and the approval of the C&R by the Board the following March.

All relevant signatures were affixed to the Compromise and Release on March 21, 2024. The Compromise and Release, page 8, sets forth "Witness the signature hereof this Thurs day [sic] of March 21-2024 at Irvine –CA." (Compromise and Release, dated 3/21/2024, page 8, EAMS Doc ID#77776796.)

The following day, March 22, 2024, the Compromise and Release was submitted to the WCAB on a walk-through basis, and on that day the settlement was approved. The Order Approving Compromise and Release is dated March 22, 2024. (Order Approving Compromise and Release dated 3/22/2024, EAMS Doc ID#77776789.)

Language in the Compromise and Release expressly addresses permanent disability.

Page 5 of 9, paragraph 6, of the Compromise and Release specifies “...The parties represent that the following facts are true: (If facts are disputed, state what each party contends under Paragraph No. 9.) ...PERMANENT DISABILITY INDEMNITY PAID \$17,689.48 Weekly rate \$290.00 Period(s) Paid January 5, 2023, End Date April 21, 2023...”

Page 6 of 9, paragraph 7, of the Compromise and Release specifies “...The parties agree to settle the above claim(s) on account of the injury(ies) by the payment of the SUM OF \$110,000. The following amounts are to be deducted from the settlement amount: \$17,689.48 for permanent disability advances through DATE OF ORDER APPROVING...\$16,500 requested as Applicant’s attorney’s fee. LEAVING A BALANCE OF \$75,810.52, after deducting the amounts set forth above and less further permanent disability advances made after the date set forth above...”

The “date set forth above” referenced in paragraph 7 is specified to be the “DATE OF ORDER APPROVING.” The date of the Order Approving Compromise and Release is March 22, 2024. The clear language of paragraph 7 thus directs deduction of \$17,689.48, and the further deduction of any additional permanent disability advances which might be made between the date of the Order Approving Compromise and Release, and the date of payment of that Order. Under the terms of the C&R, this defendant had 30 days after the date of the Order Approving within which to make payment, without incurring interest.

Page 7 of 9, paragraph 9 of the Compromise and Release provides “...The parties wish to settle these matters to avoid the costs, hazards and delays of further litigation, and agree that a serious dispute exists as to the following issues (initial only those that apply)...” The parties both initialed next to the inserted language “...permanent disability per Dr. Hurria...”

The parties appended an “ADDENDUM ‘A’” to the Compromise and Release.

Paragraph A of Addendum “A” provides “...PAYMENT CONDITIONS: It is agreed that

all permanent disability advances made both before and after the execution of the Compromise and Release will be credited against the amount in paragraph #7, page 6. The Applicant and Applicant's attorney waive penalties and interest, if payment of the Compromise and Release is made within 30 days after the Order Approving Compromise and Release issues..."

Paragraph B of Addendum "A" provides "...CONDITIONS FOR THIS COMPROMISE AND RELEASE: The following are in issue: ...nature and extent of permanent disability...Defendants desire to buy their peace. All parties desire to settle the high risk of litigation and agree that the Compromise and Release is fair and reasonable..."

Applicant and defendant were represented by counsel at all times pertinent to the issues before the Court. Paragraph A of Addendum "A" provides that all permanent disability advances made both before and after the execution of the Compromise and Release will be credited against the amount in paragraph #7, page 6. Paragraph 7, page 6 specifies the amount of those permanent disability advances to be deducted (\$17,689.48) from the gross amount of the settlement, up until the date of the Order Approving C&R (3/22/2024). There was no evidence submitted at trial suggesting any permanent disability advances made after the Order Approving Compromise and Release. The C&R specifies that the nature and extent of permanent disability was at issue, there was a serious dispute with regard to permanent disability, and that the Compromise and Release was reached to settle disputed issues and to avoid the costs, hazards and delays of further litigation.

The Court determined that the terms of the Compromise and Release set forth the amount of permanent disability advances (\$17,689.48) to be credited and the period ("through date of order approving") against which this amount is to be credited. The Court determined that the permanent disability advances properly deducted from the gross settlement amount total \$17,689.48.

IV

RECOMMENDATION

It is recommended that the Petition for Reconsideration be denied.

DATE: June 16, 2025

Nate Halprin
Workers' Compensation Judge

OPINION ON DECISION

The parties proceeded to trial on December 12, 2024, and April 16, 2025. On April 16, 2025, the matter stood submitted for decision.

The parties stipulated relevant portion to the following facts: Abas Gorbanwand, born [...], while employed on January 13, 2017, as a driver at Anaheim, California by Pacific GIS Inc. dba Sultan ADHC sustained injury arising out of and in the course of employment to the lower back and neck. At the time of injury, the employer's workers' compensation carrier was Oak River Insurance Company administered by Berkshire Hathaway Homestate Companies. The parties entered into a fully executed Compromise and Release dated March 21, 24, settling this claim. An Order Approving Compromise and Release issued thereon dated March 22, 2024.

The issues submitted for decision were

1. Can the Compromise and Release in this matter dated March 21, 2024, be set-aside and the Order thereon be rescinded based on mutual mistake of fact?
2. If not, are the permanent disability advances properly deducted from the gross amount of the settlement amount limited to \$17,689.48 or are they properly \$24,834.88?

Applicant requested the Court take judicial notice of the Compromise and Release in its file. There being no objection to that request, the Court takes judicial notice thereof. Defendant's two proposed exhibits were taken into evidence without objection.

The sole witness was the Applicant.

I.
CAN THE COMPROMISE AND RELEASE IN THIS MATTER
DATED MARCH 21, 2024 BE SET ASIDE AND THE ORDER THEREON
BE RESCINDED BASED ON MUTUAL MISTAKE OF FACT?

California Labor Code Section 5804 states in pertinent portion that “...No award of compensation shall be rescinded, altered or amended after five years from the date of the injury except upon a petition by a party in interest filed within such five years...” (California Labor Code Section 5804.)

The injury in this case occurred in 2017. The Petition was not filed until 2024. The Petition seeks to rescind the Order based upon a mutual mistake of fact. The Appeals Board lacks jurisdiction to rescind the Order. Defendant’s Petition to rescind the Order on the Compromise and Release is denied.

II
IF THE COMPROMISE AND RELEASE IN THIS MATTER
CANNOT BE SET ASIDE AND THE ORDER THEREON RESCINDED,
ARE THE PERMANENT DISABILITY ADVANCES PROPERLY
DEDUCTED FROM THE GROSS SETTLEMENT AMOUNT LIMITED
TO \$17,689.48 OR ARE THEY PROPERLY \$24,834.88?

Defendants filed a Petition to Set Aside Compromise And Release (Petition to Set Aside Compromise and Release, 11/7/2024, EAMS Doc ID# 54803907.) Therein, defendants contend “...The parties discussed the case and reached a settlement agreement which was put

in writing in November 2023 with Applicant's counsel, Michelle Beshore. The discussion included Applicant's attorney asking about the amount of PDAs to date. There was no question about the amount of PDAs that would be deducted from the settlement, but the amount of PDAs provided. It was the parties' agreement that PDAs would be deducted from the settlement. Based on the agreement, the settlement was sent to Applicant's attorney's office for the Applicant to review and sign. As noted above, the Applicant did not sign the settlement until four months later..." (Petition to Set Aside Compromise and Release, 11/7/2024, page 5:14-28, EAMS Doc ID# 54803907.)

Defendants authored the Compromise and Release which they sent for signature to Applicant's counsel in November 2023. The final form of the Compromise and Release which ultimately was submitted for approval to the WCAB in March 2024 is typed, except for initials and signatures affixed. (Compromise and Release dated 3/21/2024, EAM Doc ID#77776796.) The only apparent revision appears at Paragraph 1, Page 3 of 9. Three body parts are crossed out (head, hips, sleep) and "L-LOWER EXT; LEFT LEGS; GROIN; L-UPPER EXT" is inserted.

The settlement documents were drafted by defendants and signed by the parties (including the Applicant), with no revisions of significance to the issue before the Court. Both parties to the settlement were represented by experienced counsel.

Applicant contends the proper credit relating to permanent disability advances is \$17,689.48. Defendant contends a right to credit relating to permanent disability advances in the amount of \$24,834.88. The disparity arises from continuing payments made by defendant during the period between the original transmission of the C&R to Applicant's counsel in November, and the approval of the C&R by the Board the following March.

The meaning of a contractual release is a legal question, not a factual question, and its meaning is resolved by Application of contract principles (Solis v. Kirkwood Resort Co. (2001) 94 Cal.App.4th 354, 360.) The language of a contract governs its interpretation, if the language is clear and explicit, and does not involve an absurdity. (California Civil Code Section 1638.) When a contract is reduced to writing, the intention of the parties is to be ascertained from the writing alone, if possible. (California Civil Code Section 1639.) A contract must receive such an interpretation as will make it lawful, operative, definite, reasonable, and capable of being carried into effect, if it can be done without violating the intention of the parties. (California Civil Code Section 1643.) A contract may be explained by reference to the circumstances under which it was made, and the matter to which it relates. (California Civil Code Section 1647.) If the terms of a promise are in any respect ambiguous or uncertain, it must be interpreted in the sense in which the promisor believed, at the time of making it, that the promisee understood it. (California Civil Code Section 1649.) In cases of uncertainty not removed by the preceding rules, the language of a contract should be interpreted most strongly against the party who caused the uncertainty to exist. (California Civil Code Section 1654.)

The Court turns to the language of the Compromise and Release for guidance.

All relevant signatures were affixed to the Compromise and Release on March 21, 2024. The Compromise and Release, page 8, sets forth “Witness the signature hereof this Thurs day [sic] of March 21-2024 at Irvine –CA.”

The following day, March 22, 2024, the Compromise and Release was submitted to the WCAB on a walk-through basis and on March 22, 2024, the settlement was approved. The Order Approving Compromise and Release is dated March 22, 2024.

Language in the Compromise and Release expressly addresses permanent disability advances and how they are to be treated.

Page 5 of 9, paragraph 6, of the Compromise and Release specifies “...The represent that the following facts are true: (If facts are disputed, state what each party contends under Paragraph No. 9.)...PERMANENT DISABILITY INDEMNITY PAID \$17,689.48 Weekly rate \$290.00 Period(s) Paid 01/05/2023 End Date April 21, 2023...”

Upon this language, the Court concludes that a total of \$17,689.48 was paid in permanent disability advances and that the advances ended April 21, 2023.

Page 6 of 9, paragraph 7, of the Compromise and Release specifies “...The parties agree to settle the above claim(s) on account of the injury(ies) by the payment of the SUM OF \$110,000. The following amounts are to be deducted from the settlement amount: \$17,689.48 for permanent disability advances through DATE OF ORDER APPROVING...\$16,500 requested as Applicant’s attorney’s fee. LEAVING A BALANCE OF \$75,810.52, after deducting the amounts set forth above and less further permanent disability advances made after the date set forth above...”

The “date set forth above” referenced in paragraph 7 is specified to be the “DATE OF ORDER APPROVING.” The date of the Order Approving Compromise and Release is March 22, 2024. The clear language of paragraph 7 thus directs deduction of \$17,689.48, and the further deduction of any additional permanent disability advances which might be made between the date of the Order Approving Compromise and Release, and the date of payment of that Order. Under the terms of the C&R, this defendant had 30 days after the date of the Order Approving within which to make payment, without incurring interest.

Page 7 of 9, paragraph 9 of the Compromise and Release provides “...The parties wish

to settle these matters to avoid the costs, hazards and delays of further litigation, and agree that a serious dispute exists as to the following issues (initial only those that apply)....” The parties both initialed next to the inserted language “...permanent disability per Dr. Hurria...”

The parties appended an “ADDENDUM ‘A’” to the Compromise and Release.

Paragraph A of Addendum “A” provides “...PAYMENT CONDITIONS: It is agreed that *all* permanent disability advances made both before and after the execution of the Compromise and Release will be credited against the amount in paragraph #7, page 6. The Applicant and Applicant’s attorney waive penalties and interest, if payment of the Compromise and Release is made within 30 days after the Order Approving Compromise and Release issues...”

Paragraph B of Addendum “A” provides “...CONDITIONS FOR THIS COMPROMISE AND RELEASE: The following are in issue: ...nature and extent of permanent disability...Defendants desire to buy their peace. All parties desire to settle the high risk of litigation and agree that the Compromise and Release is fair and reasonable...”

Applicant and defendant were represented by counsel at all times pertinent to the issues before the Court. Paragraph A of Addendum “A” provides that all permanent disability advances made both before and after the execution of the Compromise and Release will be credited against the amount in paragraph #7, page 6. Paragraph 7, page 6 specifies the amount of permanent disability advances to be deducted (\$17,689.48) from the gross amount of the settlement, up until the date of the Order Approving C&R March 22, 2024. The date of execution of the C&R is March 21, 2024. There is no evidence before the Court of any permanent disability advances which may have been made after the Order Approving Compromise and Release. The C&R specifies that the nature and extent of permanent

disability was at issue, there was a serious dispute with regard to permanent disability, and that the Compromise and Release was reached to settle disputed issues and to avoid the costs, hazards and delays of further litigation.

The Court finds that the express terms of the Compromise and Release set forth the amount of permanent disability advances (\$17,689.48) to be credited and the period (“through date of order approving”) against which this amount is to be credited. The Court finds that the permanent disability advances properly deducted from the gross settlement amount total \$17,689.48.

DATE: May 15, 2025

Nate Halprin
Workers' Compensation Judge