

WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA

MARIA SOTO,

Applicant,

vs.

**CCC HOSPITALITY PISMO, LLC dba
SEACREST OCEANFRONT HOTEL; STAR
INSURANCE COMPANY,**

Defendants.

Case No. ADJ9099536
(Goleta District Office)

**OPINION AND ORDER
GRANTING PETITION FOR
REMOVAL AND DECISION
AFTER REMOVAL**

Defendant has filed a timely, verified Petition for Removal, requesting that the Appeals Board rescind the Findings of Fact and Order dated May 15, 2014, wherein the workers' compensation administrative law judge (WCJ) ordered that applicant "shall be examined by one of the PQMEs [panel qualified medical evaluators] from the list of Chiropractors promulgated by the Medical Unit." Defendant contends that applicant's request to the Medical Unit for a panel of chiropractic QMEs was defective; that the Medical Unit erroneously rejected defendant's request for a panel of QMEs in orthopedic surgery; and that chiropractors do not have the qualifications to evaluate applicant's knee injury. Applicant has filed an Answer.

Applicant, while employed as a housekeeper on July 15, 2012, sustained an industrial injury to her knee. She has been treated by Timothy Perrin, M.D., an orthopedic surgeon. On September 26, 2013, defendant wrote to applicant's attorney, objecting to the findings of Dr. Perrin (Exhibit A). On October 7, 2013, defendant submitted a Request for QME Panel to the Medical Unit, requesting a panel in orthopedic surgery (Exhibit B). On October 14, 2013, applicant submitted a Request for QME Panel, requesting a panel in chiropractic (Exhibit C). On October 26, 2013, the Medical Unit forwarded a rejection letter to defense counsel, stating that its request was incomplete (Exhibit D).

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1 We have reviewed the record herein, particularly Exhibit B. We find that defendant's Request for
2 QME Panel substantially complies with Administrative Director Rule 30(b) (Cal. Code Regs., tit. 8, §
3 30(b)). We can find no reason why the Request should have been rejected by the Medical Unit. Since
4 defendant's Request preceded applicant's Request for a panel of chiropractors, we order the Medical
5 Director to issue a panel of QMEs in orthopedic surgery, as requested by defendant.

6 As to whether defendant's request for a panel was premature pursuant to Labor Code section
7 4062.2(b) and *Messele v. Pitco Foods, Inc.* (2011) 76 Cal.Comp.Cases 956 (Appeals Board en banc), we
8 do not address this issue because it was not raised at trial and consequently was waived.

9 For the foregoing reasons,

10 **IT IS ORDERED** that defendant's Petition for Removal is **GRANTED**.

11 **IT IS FURTHER ORDERED**, as the Decision After Removal of the Workers' Compensation
12 Appeals Board, that the Findings of Fact and Order dated May 15, 2014, is **RESCINDED**.

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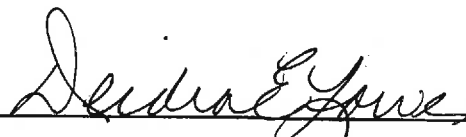
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1 IT IS FURTHER ORDERED that the Medical Unit issue a panel of qualified medical
2 evaluators in orthopedic surgery to the parties, pursuant to Labor Code section 4062.2.


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4 **WORKERS' COMPENSATION APPEALS BOARD**

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7 **DEIDRA E. LOWE**

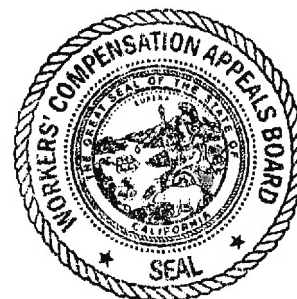
8 **I CONCUR,**

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11 **MARGUERITE SWEENEY**

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15 **FRANK M. BRASS**



16 **DATED AND FILED AT SAN FRANCISCO, CALIFORNIA**

17 **SEP 09 2014**

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

20 **BRADFORD & BARTHEL**
21 **DIVISION OF WORKERS' COMPENSATION MEDICAL UNIT**
22 **LAW OFFICES OF WILLIAM WOLFF**
23 **MARIA SOTO**

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25 **MR/ara**

BRADFORD & BARTHEL, LLP

SEP 11 2014

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