

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

Case No. ADJ12451527

CARLOS MORALES,

*Applicant,*

vs.

KAWEAH DELTA HEALTH CARE  
 DISTRICT;  
 INTERCARE PASADENA;

*Defendants.*

**FINDINGS OF FACT, ORDER AND  
 OPINION ON DECISION**

**JACOB EMRANI**  
 Attorney for Applicant

**BRADFORD & BARTELL**  
 by **MANJIT BATTH**  
 Attorney for Defendant

**FINDINGS OF FACT**

Applications having been filed herein and all parties having been Noticed to appear and evidence and/or testimony having been heard on the record, the **Honorable JEFFRY B. DIAMOND**, Workers' Compensation Judge (WCJ) finds and orders as follows:

- 1) The stipulations contained in the Minutes of Hearing from the July 7, 2020 trial are accepted as fact.
- 2) All exhibits submitted at trial are admitted into evidence.
- 3) The Findings are based solely on the exhibits, as no testimony was heard and the applicant did not appear.

BRADFORD & BARTHEL

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- 4) The applicant did not sustain an impairment resulting in permanent disability.
- 5) The applicant did not sustain an impairment resulting in the need for further medical treatment on an industrial basis.
- 6) There are no funds owing to the applicant from which attorney fees may be awarded.
- 7) There are no funds owing to the applicant from which defendant may recover costs and sanctions, should same be awarded.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the applicant, Carlos Morales, take nothing from the application filed herein. Costs and sanctions are therefore deferred upon a successful Petition for Reconsideration from Applicant; and denied upon the upholding of this decision.

### **OPINION ON DECISION**

The relevant facts are as follows:

1. The applicant failed to appear at trial of at the two preceding conference dates, but was represented by counsel at all appearances.
2. The case was submitted on the record without testimony.
3. The medical-legal opinion was provided by QME David Broderick, M.D., who authored two reports dated October 26, 2019 and November 16, 2019.
4. Applicant alleges, verbally - through his attorney - he has medical reports from his treating physicians, which support the applicant's claim for benefits; yet no such reports, records, or writings of any description, have ever been produced or made known to any attorney in this matter, or to the court.
5. The reports from Dr. Broderick are found to be substantial evidence; there has been no evidence introduced to the contrary, despite allegations of same by applicant.

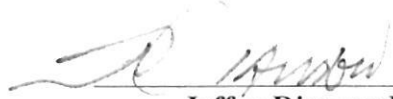
The claim was alleged and an application was filed, preliminary discovery was conducted and the parties submitted the case to a panel QME, Dr. David Broderick. The QME issued two reports, the initial assessment following the evaluation and a supplemental report three weeks later. The parties filed a DOR

and the matter was set on calendar as an informal resolution could not be reached.

The QME reports represented a "take nothing" result for the applicant. It is noted that the applicant did not appear at the first conference on February 25, 2020, nor at the second conference on June 3, 2020 where the matter was set for trial. The applicant did not appear for his trial on July 14, 2020, nor was any evidence produced on behalf of the applicant, only argument from his attorney.

Costs and sanctions claimed by the defendant in such cases are a common occurrence. However, because there can be no default judgement in Workers' Compensation, in the case of a likely take nothing decision, applicants may decide to attempt a "Hail Mary" at trial, rather than admit defeat. In such instances, costs and sanctions must be shown to be more than a punishment for the applicants who is availing themselves of their last arrow. Moreover, in the case where the claim produces no benefits to the applicant, payment for costs and sanctions would have to come from the applicant's own pocket.

DATE: 09/08/2020

  
**Jeffrey Diamond**  
WORKERS' COMPENSATION  
ADMINISTRATIVE LAW JUDGE

Served by mail on all parties listed on the Official Address record on the above date.

BY: \_\_\_\_\_

BRADFORD BARTHEL FRESNO, Email  
CARLOS MORALES, US Mail  
INTERCARE PASADENA, Email  
JACOB EMRANI LOS ANGELES, Email  
KAWEAH DELTA HEALTH CARE DISTRICT, US Mail

FILED AND SERVED ON PARTIES AS SHOWN ON THE OFFICIAL ADDRESS RECORD.

ON: 9.8.20  
BY: LeCAPS - W. Bartel DB

STATE OF CALIFORNIA  
DEPARTMENT OF INDUSTRIAL RELATIONS  
DIVISION OF WORKERS' COMPENSATION

09-08-2020

**OFFICIAL ADDRESS RECORD**

FINDING OF FACT, ORDER AND OPINION ON DECISION served on all parties, excluding employer, listed on OAR by WCAB - M. Castillo.

**Case Number:** ADJ12451527

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