

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

CASE NUMBER: ADJ8481702

SALVATORE PUCCIO

-vs.-

ONLINE GRAPHICS AND
DESIGN;
EMPLOYERS COMP
GLENDALE,

WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE: Patricia Frisch

DATE: April 12, 2017

OPINION ON DECISION

Salvatore Puccio, born March 21, 1944, while employed on April 20, 2012, as a maintenance worker, at Orange California, by Online Graphics and Finishing, sustained injury arising out of and in the course of employment to his right wrist, right hand, right ribs, numbers 10 and 11.

He did not sustain injury arising out of and in the course of employment to his circulatory system and internal.

At the time of the injury the employer's workers' compensation carrier was Employer's Compensation Insurance.

There were three days of trial: April 22, 2015, August 12, 2015 and February 22, 2017. Please refer to the Opinion and Decision and Order dated August 24, 2015 for background in the proceedings of this case. Basically, the court ordered two issues developed by the parties: Neither doctor addresses the possibility that the exertion of climbing the ladder affected the non-industrial atrial fibrillation.

Nor do they discuss what implications, if any, taking the applicant off the anticoagulants for his accepted wrist and rib fracture had on the final outcome of the applicant's present condition.

The doctors state the exertion of climbing the ladder was not a factor involving his atrial fibrillation, which had been diagnosed in March, 2011.

The court was, however mistaken about the second issue. The applicant, while being diagnosed with atrial fibrillation long before the accident, was not on any medication prior to the injury. When he was taken to the hospital for the injury the medication was not stopped to treat the industrial injury; the medication for the non-industrial atrial fibrillation (A-Fib) was not started because of the industrial injury. Further, in Dr. Fisher's deposition pages 44, lines 4-25 and page 45, lines 1-8 basically states that there is no way to tell if placing the applicant on anti-coagulation medication would have made any difference.

If the applicant had been on the medication prior to the industrial accident and the medication were stopped to treat the non-industrial injury, the case would be much stronger that the stroke (CVA) was a compensable consequence of the fall off the ladder. That is not the case. The applicant was diagnosed with A-Fib in March, 2011, for whatever reason, the applicant was not on medication for that condition and when he fell and was taken to the hospital the doctors did not remove him from any medication but decided not to administer the anticoagulant because of the industrial injury.

As one tracks the medical opinions in this case Dr. Fischer, the cardiologist finds the A-Fib and the stroke (CVA) non-industrial until Exhibit X, 9-25-16 report where he reverses himself and finds, based on the same set of facts, it to be industrial stating: due to the mechanical fall which is felt to be industrial, all impairment as a result of the fall would be industrial. This is a legal conclusion that the doctor comes to and is borne out in the deposition (Exhibit Y), 11-10-16 by discussing that the judge found the fall industrial. The doctor states that since the fall was industrial the CVA is industrial when actually the court only found the orthopedic injury industrial and wanted more information in her 8-24-15 Findings and Order.

The applicant may argue that the employer takes the applicant as he finds him; the court agrees. The applicant, in this case, while having A-Fib, hypertension and diabetes was not on any medication for the conditions because the applicant had stopped all medication the week before (Exhibit X, 7-1-16, page 3 under *Consultation, Dr. Kim*). As a result of a fall at work he had orthopedic injuries from which he has fully recovered. The CVA was not the result of an industrial injury because the applicant had pre-existing conditions, was non-compliant with his care prior to the fall and the clot was not 'loosened' or in any way affected by the fall. The only question is if the doctor's refusing to give the anticoagulant medication because of the orthopedic injuries hasten the CVA. Dr. Fischer states there is no way to tell because the applicant was on no medication before the fall, the clot had formed long before the fall and the fall did not hasten the movement of the clot; therefore the court

finds the applicant did not sustain injury arising out of or in the course of employment to his circulatory system or internal injury. The orthopedic injury has long been healed and the applicant takes nothing further from defendant.

TTD

The TTD paid by the defendant was to 6-28-12, the date of the P&S for the orthopedic injuries.

ATTORNEY FEES

There are no funds from which to award attorney fees.

DATE: April 12, 2017



Patricia Frisch

WORKERS' COMPENSATION JUDGE

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