

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

TERESA GALLEGOS,

Applicant,

vs.

OMEGA EXTRUDING CORPORATION OF CALIFORNIA; OLD REPUBLIC INSURANCE COMPANY, administered by GALLAGHER BASSETT SERVICES,

Defendants.

**Case No. ADJ10387443;
ADJ10387444-MF**

(Long Beach District Office)

JOINT FINDINGS AND ORDERS

The above entitled matter having been heard and regularly submitted, the Honorable Michael T. Justice, Workers' Compensation Judge, now decides as follows:

FINDINGS OF FACT

1. TERESA GALLEGOS born on 10-10-1968, in Case No.: ADJ10387443 while employed on 11/16/2014 as a packer at Compton, California, by OMEGA EXTRUDING CORPORATION, whose workers' compensation insurance carrier was OLD REPUBLIC INS. CO. administered by GALLAGHER BASSETT SERVICES, failed to commence proceedings for the collection of benefits within one year from the enumerated events set forth in Labor Code Sec. 5405. Therefore, the Application for Adjudication filed herein is untimely and barred under the statute of limitations. And in Case No.: ADJ10387444 she sustained injury on 10/06/2015 arising out of and occurring in the course of employment to her low back, left hip, right ankle and right wrist, but did not sustain injury arising out of and occurring in the courts of employment to her shoulders, legs, left ankle and lower extremities.

2. Applicant's injury did not cause any periods of temporary disability.

3. Applicant's injury caused permanent disability of 0%, thus not entitling applicant to any permanent disability benefits.

4. Applicant will not require further medical treatment to cure or relieve from the effects of this injury.

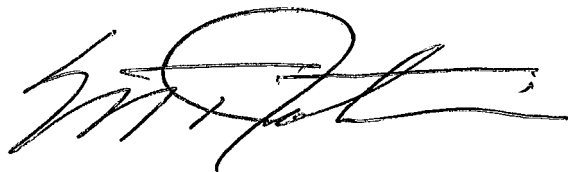
5. There are no funds from which to award attorney's fees.

ORDERS

IT IS HEREBY ORDERED THAT in Case No.: ADJ10387443, applicant's application for adjudication was filed untimely and pursuant to Labor Code Sec. 5405 she is therefore barred under the statute of limitation from collecting any benefits she may have been entitled to in this case;

IT IS FURTHER FOUND AND ORDERED THAT in Case No.: ADJ10387444 TERESA GALLEGOS sustained industrial injury as set forth above, but she had no periods of temporary total disability or permanent disability and will not require further medical treatment to cure or relieve from the effects of this injury and as such it is found/ordered that the applicant shall take nothing further in this matter. There are no benefits from which to award attorney's fees.

DATE: 06/22/2018



Michael T. Justice
WORKERS' COMPENSATION JUDGE

Served by mail on all parties listed on the
Official Address record on the above date.
BY: B. Porter

DENNIS FUSI LAKEWOOD, US Mail
EDD SDI LONG BEACH, Email
FLOYD SKEREN ORANGE, Email

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

CASE NUMBER: ADJ10387444

TERESA GALLEGOS

-vs.-

**OMEGA EXTRUDING
CORPORATION OF
CALIFORNIA; OLD
REPUBLIC INSURANCE
COMPANY, administered by
GALLAGHER BASSETT
SERVICES**

WORKERS' COMPENSATION JUDGE:

Hon. Michael T. Justice

DATE:

June 22, 2018

OPINION ON DECISION

Case No.: ADJ10387443

It appears to the Court that the applicant did sustain an industrial injury on 11/16/2014 to her upper extremities and/or wrists while operating the bag machine. However, it is also clear to the Court that the applicant had prior industrial injuries with previous employers in which she was represented by counsel. She is knowledgeable in workers' compensation. She continued working for the employer after this date of injury and did not file an application for adjudication until after she was laid off with a group of employees on 03/24/2016. Applicant was not a credible witness and appeared to the Court as one with selective amnesia regarding prior injuries as well as injury by way of the automobile accident on 07/15/2016 which involved common body parts to this claim and it is viewed by the Court that she intentionally did not mention this accident in her deposition of 01/25/2017 as well as subsequent evaluations with her workers' compensation doctor in 09/2017. As such, it is found that Labor Code Sec. 5405 applies in this instance and the applicant is therefore barred from collecting any benefits for this date of injury for failure to timely file the application for adjudication. Notwithstanding this finding, even if the Court found otherwise, the PQME medical report of Stephen Schwartz, M.D., dated 02/07/2017, which the Court finds well-reasoned and persuasive, finds the applicant suffered not periods of TD or PD and will not require further medical treatment to cure or relieve the effects of this injury. Therefore, even if the statute of limitations issue did not apply, applicant would take nothing further herein.

As to defendant's assertion of the application of L.C. Sec. 3600(A)(10), it is found this section does not apply as the employer knew of this date of injury and provided treatment for applicant while she was still employed.

Case No.: ADJ10387444

INJURY AOE/COE

Based upon the fact the applicant filed a timely application for adjudication and the employer knew of this injury while applicant was still employed with them and the employer having sent applicant for medical treatment contemporaneous to the date of injury, along with the medical report of PQME Stephen Schwartz, M.D., dated 02/07/2017, which is the better reasoned and more persuasive, it is found that applicant sustained injury to her low back, left hip, right ankle and right wrist arising out of and occurring in the course of employment on 10/06/2015, but did not sustain injury to her shoulders, legs, left ankle and lower extremities arising out of and occurring in the course of employment.

TEMPORARY DISABILITY

Pursuant to the findings as to applicant's lack of credibility as set forth above, along with the findings of PQME Stephen Schwartz, M.E. as set forth in his report dated 02/07/2017, the applicant has had no periods of temporary disability.

PERMANENT DISABILITY

Pursuant to the findings as to applicant's lack of credibility as set forth above, along with the findings of PQME Stephen Schwartz, M.E. as set forth in his report dated 02/07/2017, the applicant has no permanent disability for this injury.

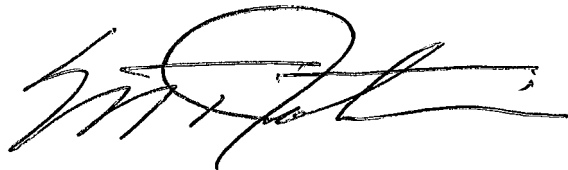
NEED FOR FURTHER MEDICAL TREATMENT

Pursuant to the findings as to applicant's lack of credibility as set forth above, along with the findings of PQME Stephen Schwartz, M.E. as set forth in his report dated 02/07/2017, the applicant will not require further medical treatment to cure or relieve from the effects of this injury.

ATTORNEY FEES

There are no benefits from which to award attorney's fees.

DATE: 06/22/2018



Michael T. Justice
WORKERS' COMPENSATION JUDGE

DENNIS FUSI LAKEWOOD, US Mail
EDD SDI LONG BEACH, Email
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