

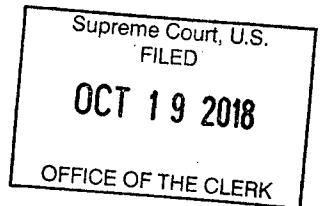
18-9078

No. _____

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES



Tina Marie Bradford — PETITIONER
(Your Name)

and Workers' Compensation Appeals Board vs.
Los Angeles County Office of Education — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

The Supreme Court of California

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Tina Marie Bradford
(Your Name)

2838 South Sycamore Ave, Apt. 1
(Address)

Los Angeles, California 90016
(City, State, Zip Code)

(323) 239-0830
(Phone Number)

IN THE SUPREME COURT OF THE UNITED STATES
ON PETITION FOR WRIT OF CERTIORARI

Petitioner: Tina Bradford
2838 South Sycamore Ave, Apt 1
Los Angeles, Ca 90016

Case Number(s): S250
ADJ10064793; ADJ873

Case Number(s): S250516; B290453;
ADJ10064793; ADJ8736268

Tina Bradford, In Forma Pauperis, MBH; MAED
VS.

Workers Compensation Appeals Board And
Los Angeles County Office of Education
York Risk Services, Inc.

Respondent (s):

1. Workers' Compensation Appeals Board

455 Golden Gate Ave, Ste. 9328

San Francisco, CA 94102

Phone Number: (415) 703-5020

2. Los Angeles County Office of Education, Employer
9300 Imperial Highway

Downey, CA 90242 Phone Number: (562) 922-6111

3. York Risk Services, Inc.

4. Attorney for Respondent

Laura Lopez

Acumen Law, LLP; Jazmine Peetz, Esq.

P.O. Box 619079

620 North Brand Blvd, 6 Floor

Roseville, CA 95661

Glendale, CA 91203

Phone Number: (951) 892- 7200

Phone Number: (818) 245-1353

QUESTIONS (s) PRESENTED

1. The Question has to do with The Workers' Compensation Appeals Board of the State of California and all states, Healthcare and the Burden of Proof in determining Worker's Compensation Benefits for injured workers. Who did the burden of proof land on the Plaintiff or Defendant and since it does not pass the threshold level of having a doctor's diagnosis for the cause of injury the preponderance of evidence need not be considered; What constitutes Burden of Proof. The Plaintiff says it's in the ponderance of evidence, the Defendants' says it's based only on a QME or AME doctor's diagnosis. Only the United States Supreme Court can only further decide this matter of evidence beyond a reasonable doubt imposed on Healthcare and Diagnosis. (*Fourteenth Amendment*).

2. Can a Compromise and Release that has already proved up that a specific injury occurred during employment be used as evidence as cause of Cumulative Trauma, when the specific exposure is progressive and incurable. Only since the matter of Tina Bradford V. Worker's Compensation Appeals Board and Los Angeles County Office of Education (2013) were newly adopted ICD9 Medical Codes (ICD9, CM139.8,2015) and newly adopted QME and AME amended procedures (SB 863) were added into California Law. AME And QME medical diagnosis procedures are no longer permitted to address medical treatment dispute issues. 8CCR, 35.5 (g) (2) provides "evaluation performed on or after July 1, 2013 regardless of date of injury shall not provide opinion on any disputed medical concerning how to diagnosis and rate disability based on rare disease. This is an important issue that only the United States Supreme Court can decide to protect American injured workers, human resource, quality Healthcare and a right to humanity (Federal Labor Standards Act, FLSA).

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

1. Worker's Compensation Appeals Board
455 Golden Gate Ave, Ste. 9328
San Francisco, CA 94102 Phone Number: (415) 703-5020
2. Los Angeles County Office of Education, Employer
9300 Imperial Highway
Downey, CA 90242 Phone Number: (562) 922-6111
3. York Risk Services, Inc.
Laura Lopez
P.O. Box 619079, Roseville, CA 95661 Phone Number: (916) 892-7200
4. Attorney for Respondent
Acumen Law, LLP; Jazmine Peetz, Esq.
620 North Brand Blvd, 6 Floor, Glendale, CA 91203
Phone Number: (818) 245-1353
5. Administrative Law Judge: Peter M. Christiano
6150 Van Nuys Blvd, Number 110
Van Nuys, CA 91401 Phone Number: (818) 901-5367

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Compromise and Release cited on Page 5 and mentioned on ALJ Christiano's Report and Recommendation on Petition for Reconsideration (hereinafter, the Recommendation) Page 1, pgr.2. Denies Plaintiff/Appellant Bradford Federal Worker's Compensation Benefit under cumulative trauma (WCAB Clerks Record).

Case mooted by WCI Christiano in Report and Recommendation on Petition for Reconsideration (Recommendation) dated 4/10/2018 as mentioned on Page 6/19 by Plaintiff Bradford on Petition for Writ of Certiorari. Denied on Burden of proof, doctor diagnosis, not ponderance of evidence, denies due process. Deposition on (WCAB Clerks Record).

As stated in Plaintiff/Appellant Petition for Writ of Certiorari (hereinafter, 'the petition') Page 7/18 and in QME doctor report by Dr. Michael Lin, Bradford was diagnosed with 1% disability due to staph infection (MRSA), Appendix H.

Claim forms for Worker's compensation benefits are on (W.C.A.B Clerks Record). Claim forms are evidence that the cumulative trauma case is not a duplicate case as stated by Defendant's attorney Jazmine Peetz, (W.C.A.B. Minutes).

Medical record from California Hospital shows evidence Appellant Bradford was hospitalized after, C and R. Medical record W.C.A.B. Clerks Record.

Worker's Compensation Appeal Board CD has all the evidence filed more so than California Appeals Court, Second District, Division 7 and California Supreme Court as these two courts discarded records that were supposed to be filed and taken into evidence.

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the State of California Worker's Comp. Appeals Board court appears at Appendix B to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. __A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was March 23, 2018. A copy of that decision appears at Appendix A.

A timely petition for rehearing was thereafter denied on the following date: May 03, 2018, and a copy of the order denying rehearing appears at Appendix C.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. __A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

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TABLE OF AUTHORITIES

California Workers Compensation Appeals Board, Noteworthy Panel Decision Reporter, (1-25-2017) 5:31 P.M. California When The “Date of Injury” Becomes a Moving Target.

Belair V. Drew 770, So. 2d 1164, 1166 (Fla. 2000)

Dollar General Store V. Cridlin, 468 S.E. 2d 152 (1996) 22 Va,

Reserve Life Insurance Co v. Hosey 208 Va 568, 159 S.E. 2d 633 (1968).

Maher v. Workers Comp, Appeals Board 190 Cal.Rptr.904,906 (1983).

MiddleKauff v. Allstate Ins. Co, 247 Va 150,154 439 S. E. 2d 394, 397(1994).

Witkin, Summary of California Law, Workers Compensation 221 (9th ed).

STATUES AND RULES

California Labor Code, Division 4 (Workers Compensation Insurance and Security), part 1 (scope an operation), chapter (1)(2), a. (2).

California Labor Code, Division 4, part 2, (computation of compensation), code 4650-4664, a. (3)(4) (4.5) disability payments and death benefits.

Ca Labor Code, Division 4, part 3, (compensation claims), chapter (1) (2)(3) chapter 7, (medical exams) code 4050-4068.

Ca Labor Code, Chapter 7, 5903 (a-e) WCJ acted without and in excess of powers.

Ca Labor Code 5412 Determines Date of Cumulative Trauma Injury; 5500 Determines Date of Cumulative Injury for Carrier Liability Purposes

ICD9 CM 139.8, SSSS, Staphylococcal Scalded Skin Syndrome ETA, ETB Epidermolytic; Medline Plus Medical Encyclopedia (2015).

SB 863; 8CCR, 35.5 (g) (2) (July 1, 2013).

W.W. Cross and Company, Inc. V. United Steel Workers' Union

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OTHER RELEVANT CITATIONS

Workers Compensation Compendium, Theodore A. Penny, Peter Dubrawski, Yvette Davis, Esq, Haight Brown and Bonesteel LLP, www.hbblaw.com (20013), ALFA International, The Global Legal Network. Evidence for cause of injury.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Government Code Number 11, 1094.5 or Bargaining Unit 5 and 8, 19576.1 or 19576.5. Courts Judgement is against public interest.

Federal Labor Standards Act (FLSA) Human rights Commission, DOL.

Fourteenth Amendment, United States Constitution; Kettmeyer, William., Eagleton, Thomas F, Our Constitution and What it Means, McGraw-Hill Book Company (1987), Right to Life, Liberty and Property; Due Process.

PETITION FOR WRIT OF CERTIORARI

Statement of the Case

The fact is the Petitioner/Employee contacted a flesh eating, MRSA Staph Infection of the skin while working for Los Angeles County Office of Education (LACOE), an infection that will never go away. I am a credentialed Teacher that will never be able to work again in the classroom Teacher capacity due to this illness. Due to Collusion between W.C.A.B and LACOE and Attorneys, Claim

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Administrators, Insurance Company, all against Petitioner to deliberately not pay compensatory damages is unjust and against humanity while Petitioner slowly withers away. Petitioner has undergone two claim administrators, two law firms, attorneys that work side by side with W.C.A.B. Administrative Law Judges, to make sure injured workers don't get the benefits they are entitled to by the Labor Code, Division 4, ch.4, p. 2, code 4650-4664, a. (3)(4) (4.5); Part 3, chapter (1)(2)(3), when the truth flies in the face of the known facts. Evidence documents have been shuffled around, left out, a couple pages from Dr. Lin's QME was attached to a couple of pages from Dr. Shear's QME report, and given to Petitioner as exhibits, the percentage of disability given to me by Dr. Lin was not stated on the copy signed by the Judge during the walk through of the Compromise and Release, thereby altering the Judge's decision to sign the settlement, all while I was fighting to live. The burden has shifted from the Defendant to the Petitioner, back to the Defendant and back to the Petitioner again. Not to mention the confidentiality of my medical records have now been made public due to litigation, this is irreparable damage to Plaintiff. Now is a good time for the courts to uphold its integrity, laws and constitution for the good of humanity and the United States of America.

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Trial court exercised independent judgement, courts opinion and judgement are against public interest (Bargaining Unit 5 and 8, 19576.1). Trial court departed from essential requirements of the law thereby causing irreparable injury which cannot be adequately remedied on appeal following final judgement Trial court denials are not interlocutory, Belair, So. 2d at 1164, 1166 (Fla. 2000). Plaintiff's burden of proof was buried in the ponderance of evidence that was not in the form of a doctor's diagnosis and subsequently mooted by Workers compensation Administrative Law Judge, Peter M. Christiano and upheld by all levels of further review, appeal and review of the State of California, thereby denying Plaintiff Due Process of the Law, a right to a fair hearing and trial by jury. The following case law shows that a doctor's diagnosis is not the only evidence that should be considered as burden of proof for worker's compensation benefits.

(1). The test for "arising out of" has been gradually liberalized in Witkin a specific Medical Diagnosis is not always needed to determine a continuous Cumulative Trauma, specific cause of injury, when one specific injury is the cause of the cumulative trauma Witkin: Summary of California Law, Worker's Compensation 221 (9th ed.); Penny, Theodore, Workers Compensation Compendium (2013). Employment and injury must only be linked and connection need not be evidence beyond a reasonable doubt to cause of injury, sufficient if employment is a

contributory cause of injury, Mayer v. Workers Compensation Appeals Board (1983). The cause of injury stated by Worker Compensation Compendium, Penny, Theodore A (2013) the cause of injury has to only bring danger time and place of injury.

Appellant Tina Bradford, employee was employed as a substitute teacher for the Los Angeles County Office of Education. During employee's employment was exposed to MRSA A bacterial Staph Infection of the Skin. After discovering that Appellant had Staph A Claim for injury was filled. Claim was denied. Subsequently Appellant saw a QME Doctor Michael Lin that diagnosed Appellant with 1% disability due to Staph infection that was contacted during multiple exposure, and that the exposure was industrious and permanent. During the Appellant's Duress a Compromise and Release, dated 1/28/2013, was signed. Appellant continued to digress and developed multiple cumulative trauma injuries, mentioned below. Appellant was unaware of the after affects the progression of the disease would have on the body and future employment. After Appellant was hospitalized 2014 with an allergic reaction to the skin, Appellant filed a subsequent claim for workers compensation benefits for cumulative trauma dated 7/14/2015 before

seeking counsel. Counsel filed a second claim dated the same date Appellant had filed, 2015 with the exception of the date of injury which was dated 1/2009-1/2010. Counsel also filed an Adjudication for Claim. A hearing was held and Appellant's Adjudication for Claim was denied for failing to show Burden of Proof on WCJ, Findings and Order dated 3/23/2018. Appellant filled Petition for Reconsideration dated 3/30/2018 which was denied based on the Administrative Law Judge's Report dated 4/10/2018. **Appellant Petitions for a Writ of Certiorari to this matter which requires Judicial Notice.** Appellant is aggrieved that there is fault in the Judge's findings.

Ca Labor Code 5412 Determines Date of Cumulative Trauma Injury; 5500 Determines Date of Cumulative Injury for Carrier Liability Purposes.

Medical Evidence

- A. There is extensive evidence that Appellant/Applicant sought medical treatment when first discovering there was something wrong with skin. Appellant/Applicant first sought treatment at THE Clinic, a diagnosis of Contact Dermatitis was given, oral and topical ointment antibiotic were prescribed. Appellant took oral antibiotics for 2 weeks, applied ointment, there was no change in the symptoms, Appellant/Applicant sought

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treatment a 2nd time T.H.E Clinic prescribed a different oral and topical antibiotic that did not work, symptoms persisted. After seeking treatment 2 or three more times at T.H.E clinic and Appellant/Applicant was not relieved of suffering, a referral to Psychiatrist within the T.H.E Clinic was given to Appellant whom gave referral to Martin Luther King Dermatologist, where I was prescribed another oral antibiotic and topical ointment, still no change in symptoms and was not cured.

Appellant/Applicant sought treatment at numerous other Treatment Centers, Humbert Humphrey, and Queens Care. Later Dr. Freed who is not a part of the court record.

Symptoms including constant, severe, prolonged itching consisting over approximately 6 years until present. Medical evidence is a part of the record. All treatments prove Appellant/Applicant suffers from skin Staphylococcus Aureus infection, although not stated specifically due to there not being (at the time) a state medical code for prescribing medication and treatment. At this time Appellant/Applicant thought it best to go Holistic with Functional Medicine, which has provided some relief, however Staphylococcus Aureus infection is not cured and continues to persist.

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Appellant/Applicant first realized cumulative trauma to internal organs had progressed). which is approximately one year after settling C and R and within the time limit required to reopen the case, file a new claim or file for adjudication of claim. When Appellant/Applicant did not get an answer from Defendant/Respondent, Appellant obtained an attorney Ronald M. Canter who retained the case for Appellant/Applicant and proceeded to file another claim dated 8/1/09-8/1/10 (Appellant/Applicant, Exhibit K) as date of cumulative trauma injury approximately one month after the date of first settled claim date of injury 7/15/2009; date of claim dated 5/18/2012) then Attorney Ronald Canter opened an Adjudication for Claim dated 8/10/2015. Attorney Ronald Canter filed a motion to be removed as attorney on this case based on nondisclosure reasons.

On the WCJ Report and Recommendation on Petition for Reconsideration (RRPR) dated 4/10/2018, Page 2, it states Applicant last worked 2010, however the last date of employment is 2011 for legal/liability purposes, when Appellant no longer was an employee of Los Angeles County Office of Education (LACOE).

B. The Administrative Law Judge (WCJ) did not consider the preponderance of the evidence. Due to the nature and cumulative effects of the injury, the

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Reasons for Granting the Petition

Appellant/Applicant prays and sues for 10 million dollars for Loss of wages, income, time not able to work in career as a Teacher, loss of mental capabilities, Depression, Not being able to restore normalcy of life in relationships with significant other family and friend, persistent medical issues with skin and internal, muscular, nerve, skeletal, digestive cumulative trauma and prays for all of the entitlements due under Workers Compensation Benefits; permanent disability at 100 percent as stated on both Dr. Shear's and Dr. Lin's QME reports.

A. First the Administrative Law Judge (WCJ) has the dates all mixed up[Sic] and states on his Report and Recommendation on Petition for Reconsideration, Page 1 the cumulative trauma was alleged during the period of 8/1/2009 through 8/1/2010 this is not true the cumulative trauma claim was filed when first identifying cumulative trauma injuries that had occurred and progressed, starting 3/1/2014 (Appellant/Applicant exhibit D5) date of injury; date of claim was 7/13/2015 for muscle tremors, nerve damage to upper and lower extremities, eyes, cervical cancer, hypothyroidism, acid reflux and internal complaints. Appellant/Applicant was hospitalized at California Hospital on 6/15/2014 (Appellant's Exhibit P) (this is also the time

Appellant/Applicant first realized cumulative trauma to internal organs had progressed). which is approximately one year after settling C and R and within the time limit required to reopen the case, file a new claim or file for adjudication of claim. When Appellant/Applicant did not get an answer from Defendant/Respondent, Appellant obtained an attorney Ronald M. Canter who retained the case for Appellant/Applicant and proceeded to file another claim dated 8/1/09-8/1/10 (Appellant/Applicant, Exhibit K) as date of cumulative trauma injury approximately one month after the date of first settled claim date of injury 7/15/2009; date of claim dated 5/18/2012) then Attorney Ronald Canter opened an Adjudication for Claim dated 8/10/2015. Attorney Ronald Canter filed a motion to be removed as attorney on this case based on nondisclosure reasons.

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B. The Administrative Law Judge (WCJ) did not consider the preponderance of the evidence. Due to the nature and cumulative effects of the injury, the

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decision to grant worker's compensation benefits solely based on QME report of Dr. Stuart Shear dated 5/7/2017 who's report was objected to by the Appellant/Applicant in whole or in part which was still taken into the trial minutes, (Court Exhibit X1) and considered without objection. The first QME Report by Dr. Lin dated 11/6/2012 (trial minutes, page 3, exhibit X1) that states Appellant/Applicant had a 1% disability due to Staph infection and Dr. Lin's Supplemental Report that explains the effects of Staph and the future effects it would have on Appellant/Applicant dated 11/6/2012 was deliberately not considered in the Appeal Trial or Worker's Compensation Appeal Board (WCAB) Petition for Reconsideration. There is Burden of Proof filled in the WCAB Court Record that was not considered all submitted exhibits were not considered except the QME Report by Dr. Stuart Shear, **which denies Appellant's right to a fair hearing and a decision based on the preponderance of evidence whether stated or implied by a doctor. Only criminal cases require evidence beyond a reasonable doubt, not when it comes to Workers Compensation Benefits and an injured workers health.**

Labor Code, Chapter 7, 5903 (a-e) WCJ acted without and in excess of power by not considering Appellant/Applicant case in its entirety and not requesting or providing a formal medical rating from self (WCJ) or the medical evaluation unit as was a caveat that I was told by the WCJ would be forwarded to the medical evaluation unit. Without this evaluation Appellant was not compensated fairly on the severity of disease which is permanent and progressive Cumulative Trauma and damages to other organs and systems of the body once toxins entered into the blood stream. The case Dollar General Store V. Cridlin, 468 S.E. 2d 152 (1996) 22 Va, a **QME report is not the only evidence needed to determine cause of injury.** Though an injury by accident by contrast incurred injury is not an injury by accident within the meaning of the act.

C. The Judge's decision is against the Labor Code, it denies the Appellant rights to workers compensation benefits that Appellant is entitled to for restoring life to normalcy as much as possible, such as employment, earnings, permanent disability, apportionment, need for further medical treatment. The defense attorney's (Jazmine Peetz) defense stated on WCJ, RRPR (Report and Recommendation on Petition for Reconsideration) that the defenses are that the claim is barred by the statute of limitations, which

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is not true the claim(s) are well within the statute of limitations. The claim is barred by post termination filing, and that Appellant/Applicant failed to timely report the claim is just false. *MiddleKauff v. Allstate Ins. Co*, 247 Va 150, 154 439 S. E. 2d 394, 397(1994) an injury need not occur within a specific number of seconds or minutes but instead must occur within a reasonable definite time. Employer argues that the commission violated the well, established rule that it must look to medical evidence to ascertain the cause of injury. Hosey, however does not support Employer's assertion; *Reserve Life Insurance Co v. Hosey* 208 Va 568, 159 S.E. 2d 633 (1968). The court's ruling does not support Employer's argument that medical evidence is dispositive or required to establish causation of injury.

WCJ and WCAB did not consider the legality of the Compromise and Release(CR) that was signed under the Appellants Duress. The C and R denies Workers Compensation Benefits entitled to injured workers under the Ca Labor Code 3.1110.

D. The Staff infection is a permanent, progressive disease where Appellant is entitled to permanent disability benefits.

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In summary, the Appellant/ Applicant is aggrieved by the Workers Compensation Administrative Law Judge (WCJ) and the Workers Compensation Appeals Board to deny Workers Compensation Benefits to an injured worker. Petition For Writ of Certiorari should be granted to solve this matter to determine if the law acted judicially correct and if not compensate the injured worker based on what is judicially correct and change or update any decisions, opinions and orders as necessary to accommodate medical issues that are not specific injuries and are occupational and cumulative such as incurable bacterial infections and diseases. The issues at hand in the matter of Tina Bradford v. Los Angeles County Office Of Education and York Risk Services, Inc. are

A. Is it lawful to only use a Qualified Medical Examiner's Report to determine an injured worker percentage of, entitlement to, qualification of, State Workers Compensation Benefits.

B. Is it lawful or does it waive an injured Workers Rights to Workers Compensation Benefits when a Compromise and Release settles a claim and then other injuries occur that were not otherwise known of, when C s and R was settled under injured Employees' Duress.

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B.L.B.

CONCLUSION

The petition for writ of certiorari should be granted.

Respectfully submitted,

Tina Marie Bradford

Date: October, 18, 2018

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