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ADJ15516443	ADJ16478526,ADJ11729532	ADJ	LEGAL DOCS	132A	C:\fakepath\132A Petition.pdf	<input type="button" value="Delete"/>
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9 ATTORNEY FOR APPLICANT

7 **WORKERS' COMPENSATION APPEALS BOARD**
8 **STATE OF CALIFORNIA**

10 PATRICIA BUSH

11 Applicant,

12 vs.

14 POMONA VALLEY HOSPITAL MEDICAL
15 CENTER, ADMINSURE ONTARIO

16 Defendants.

Case No. ADJ15516443;
ADJ16478526; ADJ11729532;

PETITION FOR DISCRIMINATION
BENEFITS PURSUANT TO LABOR CODE
SECTION 132(a)

17 COMES NOW Applicant and the Attorney of Record, NATALIA FOLEY BEVERLY
18 HILLS, and claiming benefits against the employer POMONA VALLEY HOSPITAL MEDICAL
19 CENTER for discrimination benefits pursuant to California Labor Code Section 132(a) alleges as
20 follows:

21 **I. STATEMENT OF FACTS**

22
23 Applicant PATRICIA BUSH (hereinafter – Applicant) was employed by POMONA
24 VALLEY HOSPITAL MEDICAL CENTER (hereinafter – Employer) as a nurse, and sustained
25 injuries to her bilateral knees, shoulders, LOWER BACK, upper and LOWER EXTREMITIES,
26 other body parts while in the course and scope of her employment. Currently applicant is claiming
27 the following dates of injuries:

28

WCAB	DOI	CLAIMS
ADJ11729532	11/10/2018	18-13 8707

ADJ15516443	11/13/2021	22-160325 denied
ADJ16478526	07/27/2020 - 07/27/2022	22-166433 In delay

As part of her workers compensation case, Applicant had shoulder surgery and was off work for certain period of time for recovery. Applicant is in constant pain due to her bilateral knees' injuries, yet she returned to work because she almost maxed on her temporary disability payments. Unfortunately, her employer did not offer any light duty and applicant was performing her duty without consideration of her disability.

As soon as applicant returned to work, she noticed that she was treated differently compared to others. Applicant was constantly picked on for no reason, discriminated on the basis of her age and physical disability, falsely accused of something she did not do, and intentionally set up for a failure by being forced to handle alone the emergency room with over several dozens of people over her objections, even though this job requires at least two or more workers. It was clear to the applicant that the administration is trying to create a paper tail to justify her termination in retaliation for filing for workers compensation benefits. Eventually, on 10/13/2022, applicant was terminated without having an opportunity to present her side at the administrative hearing.

Applicant is informed and believes, and thereon alleges, that Defendant's actions were nothing other than a discrimination against Applicant for her filings for Workers Compensation workers' compensation benefits.

II. APPLICANT IS ENTITLED TO MULTIPLE BENEFITS

Upon the Board's Finding of wrongful discrimination, Applicant is entitled to a 50% penalty assessed against benefits paid or due up to \$10,000. In addition, Applicant demands back wages and other benefits. The Board may order back and front wages until reinstatement. *Barns v. WCAB* (1994) 59 CCC 156; *Eubanks v. WCAB* (1994) 59CCC 223; *United Airlines v. WCAB* (1998) 63 CCC 1445. This can include payment of the Employer's portion of the unemployment tax, reimbursement of group health benefits, seniority and cost of living increases, and increased retirement benefits.

If an Award of increased retirement benefits would violate ERISA provisions, the Board can order, instead, a dollar Award for the lost value of the enhanced retirement benefits. *Eubanks v. WCAB*, *supra*:

“The employee's retirement account must be brought up-to-date

1 if possible. Otherwise, she is to receive the amount of money
2 which would have been credited for her retirement.”

3 Finally, pursuant to the Supreme Court’s decision in *Currie v. WCAB* (2001) 66 CCC 208, 24 Cal.
4 4th 1109, Applicant must be awarded all pre-judgment interest on all back pay due Applicant. The
5 Court stated that:

6 “...the Award must include all pre-Award interest on all back pay
7 from the date it accrued pursuant to CC Section 3287(a). Interest
8 is recoverable on each salary or pension payment from the date
9 it fell due.

10 “CC Section 3287(a) states ‘Every person who is entitled to
11 recover damages certain, or capable of being made certain
12 by calculation, and the right to recover which is vested in him
13 on a particular day, is entitled also to recover interest thereon
14 from that day.’ “

15 The Supreme Court’s Holding in that case was:

16 “We agree that CC Section 3287(a) applies to back pay Awards
17 made under LC Section 132a...without the pre-judgment interest,
18 the back pay remedy may lose a significant portion of its value,
19 and the Employee is left ‘less than fully reimbursed’ for his or
20 her lost wages.”

21 **III. CONCLUSION**

22 WHEREFORE, Applicant respectfully requests that she be awarded the benefits provided by
23 California Labor Code Section 132(a) including the following benefits:

- 24 • Increased compensation;
- 25 • Reinstatement;
- 26 • Reimbursement for lost wages and work benefits caused by said Defendant’s act;
27 such work benefits to include, but not limited to, cost-of-living increases, accrued
28 vacation and sick leave benefits, the Employer’s portion of the Unemployment tax,
enhancement of retirement benefits;
- And pre-Award interest on all back pay.

1 Defendants to be given credit for all income earned by Applicant from the date of
2 termination in her good-faith attempt to mitigate damages.

3
4 Respectfully Submitted:

5 WORKERS DEFENDERS ANAHEIM

6
7 
8 BY NATALIA FOLEY, ESQ (SBN 295923)

9 Applicant Attorney

10 10/18/2022
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9 PATRICIA BUSH

Applicant,

Case No. ADJ15516443;
ADJ16478526; ADJ11729532;

10 vs.

VERIFICATION

11
12 POMONA VALLEY HOSPITAL MEDICAL
13 CENTER, ADMINISURE ONTARIO

14 Defendants

15
16 **VERIFICATION**

17 I, Natalia Foley, declare as follows:

18 I am the attorney for Application in this action I have read the enclosed 132 (A) Petition for
19 and know its content. All facts alleged in the Petition pursuant to Labor § Code 132(A) are true of
20 my own personal knowledge or with respect to those facts which are alleged upon information and
21 belief. I am informed of the same and believe the same to be true.

22 I declare under penalty of perjury that the foregoing is true and correct and that this
23 declaration was executed at Los Angeles, CA

24 Dated: 10/18/2022

25 Respectfully Submitted:

26 WORKERS DEFENDERS ANAHEIM

27 
28 _____
BY NATALIA FOLEY, ESQ

E-Filer: WORKERS DEFENDERS LAW GROUP
UAN: WORKERS DEFENDERS ANAHEIM
ERN: 13792552
751 S Weir Canyon Rd Ste 157-455 Anaheim CA 92808

PROOF OF SERVICE

State Of California
County of Los Angeles

I am employed in the county of Los Angeles, State of California.
I am over the age of 18 years and not a party to the within action; my business address is:
751 S Weir Canyon Rd Ste 157-455
Anaheim CA 92808

I am readily familiar with the firm's business practice of processing correspondence for mailing. In the ordinary course of business, the correspondence would be deposited with the United States Postal Service on that same day with postage thereon fully prepaid at my business address above. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing as listed.

On 10/18/2022 I served the foregoing documents described as:

PETITION FOR DISCRIMINATION BENEFITS PURSUANT TO LABOR CODE SECTION 132(a);
verification

on the interested parties in this action, by placing a true copy thereof in a sealed envelope with postage thereon fully prepaid, in the United States Mail at my address stated above, addressed as follows:

WCAB (AHM)
1065 N PACIFIC CENTER DR STE 170
ANAHEIM CA 92806

AdminSure
3380 Shelby Street
Ontario, CA 91764

BECKY KOVAC, Esq
LAW OFFICES OF ROBERT WHEATLEY
14661 Franklin Avenue Suite 100
Tustin, California 92780-7200

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
Executed on: 10/18/2022 at Los Angeles, CA

By IRINA PALEES,
Legal Assistant to Attorney
Natalia Foley, Esq