1/25/2020 Success



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| 1 | NATALIA FOLEY, SBN 295923 | | | | |
|----|--|--|--|--|--|
| 2 | NATALIA FOLEY BEVERLY HILLS | | | | |
| | UAN 11964930 Law Offices of Natalia Foley | | | | |
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| 6 | ATTORNEY FOR APPLICANT | | | | |
| 7 | WORKERS' COMPENSATION APPEALS BOARD | | | | |
| 8 | STATE OF CALIFORNIA | | | | |
| 9 | | | | | |
| | RAYMOND KENDRICK | Case No. ADJ11362261 | | | |
| 10 | | PETITION FOR DISCRIMINATION | | | |
| 11 | Applicant, | BENEFITS PURSUANT TO LABOR | | | |
| 12 | VS. | CODE SECTION 132(a) | | | |
| 13 | | | | | |
| 14 | ТНЕ НОМЕ DEPOT | | | | |
| 15 | Defendants. | | | | |
| 16 | | | | | |
| 17 | TO THE WORKERS' COMPENSATION APPE | ALS BOARD: | | | |
| | COMES NOW Applicant and the Attorney o | f Record, THE LAW OFFICES OF NATALIA | | | |
| 18 | FOLEY, and claiming benefits against the employer | THE HOME DEPOT for discrimination | | | |
| 19 | benefits pursuant to California Labor Code Section I | 32(a) alleges as follows: | | | |
| 20 | I | | | | |
| 21 | On 04/01/2007 - 05/24/2018, Applicant, while | e employed by THE HOME DEPO, as a sale | | | |
| 22 | person, sustained injury to his19 ARM-NOT SPECIFIED; 330 HAND- (NOT WRIST OR | | | | |
| 23 | FINGERS); 420 BACK- INCLUDING BACK MUSCLES, SPINE AND SPINAL CORD while in | | | | |
| | the course and scope of her employment. | | | | |
| 24 | II. | | | | |
| 25 | On or about 06/12/2018 Applicant filed an A | pplication for Adjudication of Claim for | | | |
| 26 | said industrial injury with the California Workers' Compensation Appeals Board at Los Angeles, | | | | |
| 27 | California, for workers' compensation benefits. Said Application named Applicant's employer, THE | | | | |
| 28 | HOME DEPO (hereinafter – "EMPLOYER"), as a | party defendant. | | | |
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Since that time, Employer initiated series of intentional retaliatory acts against the Applicant, publicly humiliating him, forcing him to perform acts outside of his duty, discriminating Applicant on the basis of his disability, creating hostile work environment in retaliation for filling workers compensation claim.

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On or about 07/12/2019, Applicant was terminated by in an apparent violation of Section 132A of the labor code.

IV

Applicant is informed and believes. and thereon alleges, that Defendant's actions were nothing other than an attempt to discriminate against Applicant for filing an Application for workers' compensation benefits.

V.

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 vs. WCAB (1994) 59 CCC 156; Eubanks v. WCAB (1994) 59CCC223; 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 ERIS/\ 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 if possible.

Otherwise, she is to receive the amount of money which would have been credited for her retirement."

Finally, pursuant to the Supreme Court's decision in Currie v. WCAB (2001) 66 CCC 208, 24 Cal. 4111 1109, Applicant must be awarded all pre-.judgment interest on all back pay due Applicant. The Court stated that:

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

"CC Section 3287(a) states · Evely person who is entitled to recover damages 1 certain, or capable of being made certain by calculation, and the right to recover 2 which is vested in him on a particular day, is entitled also to recover interest thereon 3 from that day.' " 4 The Supreme Court's Holding in that case was: 5 "We agree that CC Section 3287(a) applies to back pay Awards made under LC 6 Section 132a ... without the pre-judgment interest, the back pay remedy may lose a 7 significant portion of its value, and the Employee is left 'less than fully reimbursed' 8 for his or her lost wages." 9 WHEREFORE, Applicant requests that he be awarded benefits under Labor Code Section 132a, 10 including: 11 Increased compensation; 12 Reinstatement; 13 Reimbursement for lost wages and work benefits caused by said Defendant's act such work 14 benefits to include, but not limited to, cost-of-living increases, accrued vacation and sick 15 leave benefits, the Employer's portion of the Unemployment tax, enhancement of retirement benefits; 16 And pre-Award interest on all back pay. 17 18 Dated: 1/25/2020 19 Respectfully Submitted: 20 LAW OFFICES OF NATALIA FOLEY. 21 BY NATALIA FOLEY, ESQ 22 Attorney for Applicant 23 24 25 26 27

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| 1 | NATALIA FOLEY, SBN 295923 | | | | | |
|-----|--|----------------------|--|--|--|--|
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| 5 | tel 310 707 8098/ fax 310 626 9632 | | | | | |
| | nfoleylaw@gmail.com ATTORNEY FOR APPLICANT | | | | | |
| 6 | ATTORNET FOR AFFLICANT | | | | | |
| 7 | WORKERS' COMPENSATION APPEALS BOARD | | | | | |
| 8 | STATE OF CALIFORNIA | | | | | |
| 9 | - DAVIAGNE WENDDIGW | G N ADVI1060061 | | | | |
| 10 | RAYMOND KENDRICK | Case No. ADJ11362261 | | | | |
| 11 | Amplicant | VERIFICATION | | | | |
| 12 | Applicant, vs. | | | | | |
| 13 | | | | | | |
| 14 | THE HOME DEPOT | | | | | |
| 15 | Defendants. | | | | | |
| 16 | | | | | | |
| 17 | I, NATALIA FOLEY, declare as follows | | | | | |
| | I am one of the attorneys for Applicant in this action. I have read the enclosed PETITION FOR DISCRIMINATION BENEFITS PURSUANT TO LABOR CODE SECTION 132 (A) and | | | | | |
| 18 | know its contents. | | | | | |
| 19 | All facts alleged in the PETITION FOR DISCRIMINATION BENEFITS PURSUANT TO LABOR CODE SECTION 132 (A) CASE are true of my own personal knowledge or with respect | | | | | |
| 20 | to those facts which are alleged upon information and belief, I am informed of the same and believe | | | | | |
| 21 | the same to be true. I declare under penalty of perjury that the foregoing is true and correct and that this | | | | | |
| 22 | declaration was executed at Anaheim, California. | | | | | |
| 23 | Respectfully submitted, Dated: 1/25/2020 | | | | | |
| 24 | Respectfully Submitted: | | | | | |
| 25 | LAW OFFICES OF NATALIA FOLE | | | | | |
| 26 | BY NATALIA FOLEY, ESQ | | | | | |
| 27 | Attorney for Applicant | | | | | |
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| 1 | E-Filer: UAN: | NATALIA FOLEY, ESQ NATALIA FOLEY BEVE | PDI V HII I C | | |
|----|--|--|--------------------|-------------------------------------|--|
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| 5 | PROOF OF SERVICE | | | | |
| 6 | RAYMOND KE | ENDRICK vs THE HON | ME DEPOT | ADJ11362261 | |
| 7 | State Of California County of Los Angeles | | | | |
| 8 | I am employed in the county of Los Angeles, State of California. | | | | |
| 9 | I am over the age of 18 years and not a party to the within action; my business address is: 8306 WILSHIRE BLVD STE 115 | | | | |
| 10 | BEVERLY HILLS CA 90211 | | | | |
| 11 | 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 | | | | |
| 12 | that same day with postage thereon fully prepaid at my business address above. I am aware that on motion of | | | | |
| 13 | 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 1/25/2020 I served the foregoing documents described as: | | | | |
| 14 | | | | | |
| 15 | PETITION FOR DISCRIMINATION BENEFITS PURSUANT TO LABOR CODE SECTION 132(a) | | | | |
| 16 | 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: | | | | |
| 17 | CA STATE DIV | ISION OF | Š | SCIF INSURED LONG BEACH | |
| 18 | WORKERS' CC 320 W 4TH ST, | OMPENSATION (LAO | | PO BOX 3171 SUISUN CITY CA 94585 | |
| 19 | LOS ANGELES | S, CA 90013 | | | |
| 20 | ALBERT AND 16600 SHERMA | MACKENZIE LLP AN WAY | | THE HOME DEPOT 415 CHERRY AVE | |
| 21 | SUITE 150 VAN NUYS, CA 91406 | | | SIGNAL HILL CA 90755 | |
| 22 | I declare under penalty of perjury under the laws of the State of California that the foregoing is true and | | | | |
| 23 | correct. Executed on: 1/25/2020 at Los A | | at Los Angeles, C | A | |
| 24 | | | | By RINA PALEES, | |
| 25 | Legal Assistant to Attorney Natalia Foley, Esq | | | | |
| 26 | | | | - · · · · · | |
| 27 | | | | | |