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

9 RAYMOND KENDRICK

Case No. ADJ11362261

10 Applicant,

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

11 vs.

12 THE HOME DEPOT

13 Defendants.

14 **TO THE WORKERS' COMPENSATION APPEALS BOARD:**

15 COMES NOW Applicant and the Attorney of Record, THE LAW OFFICES OF NATALIA
16 FOLEY, and claiming benefits against the employer THE HOME DEPOT for discrimination
17 benefits pursuant to California Labor Code Section I 32(a) alleges as follows:

18 I

19 On 04/01/2007 - 05/24/2018, Applicant, while employed by THE HOME DEPO, as a sale
20 person, sustained injury to his19 ARM-NOT SPECIFIED; 330 HAND- (NOT WRIST OR
21 FINGERS); 420 BACK- INCLUDING BACK MUSCLES, SPINE AND SPINAL CORD while in
22 the course and scope of her employment.

23 II.

24 On or about 06/12/2018 Applicant filed an Application for Adjudication of Claim for
25 said industrial injury with the California Workers' Compensation Appeals Board at Los Angeles,
26 California, for workers' compensation benefits. Said Application named Applicant's employer, THE
27 HOME DEPO (hereinafter – "EMPLOYER") , as a party defendant.
28

1 Since that time, Employer initiated series of intentional retaliatory acts against the
2 Applicant, publicly humiliating him, forcing him to perform acts outside of his duty, discriminating
3 Applicant on the basis of his disability, creating hostile work environment in retaliation for filing
4 workers compensation claim.

5 III

6 On or about 07/12/2019, Applicant was terminated by in an apparent violation of Section
7 132A of the labor code.

8 IV

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

12 V.

13 APPLICANT IS ENTITLED TO MULTIPLE BENEFITS

14 Upon the Board's Finding of wrongful discrimination, Applicant is entitled to a 50% penalty
15 assessed against benefits paid or due up to \$10,000. In addition. Applicant demands back wages and
16 other benefits. The Board may order back and front wages until reinstatement. BARNES vs. WCAB
17 (1994) 59 CCC 156; Eubanks v. WCAB (1994) 59CCC223; United Airlines v. WCAB (1998) 63
18 CCC 1445. This can include payment of the Employer's portion of the Unemployment tax,
19 reimbursement of group health benefits, seniority and cost of living increases, and increased
20 retirement benefits.

21 If an Award of increased retirement benefits would violate ERIS\ provisions. the Board can
22 order, instead, a dollar Award for the lost value of the enhanced retirement benefits.`

23 Eubanks v. WCAB, supra:

24 "The employee's retirement account must be brought up-to-date if possible.

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

27 Finally, pursuant to the Supreme Court's decision in Currie v. WCAB (2001) 66 CCC 208,
28 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.

1 "CC Section 3287(a) states 'Every person who is entitled to recover damages
2 certain, or capable of being made certain by calculation, and the right to recover
3 which is vested in him on a particular day, is entitled also to recover interest thereon
4 from that day.' "

5 The Supreme Court's Holding in that case was:

6 "We agree that CC Section 3287(a) applies to back pay Awards made under LC
7 Section 132a ... without the pre-judgment interest, the back pay remedy may lose a
8 significant portion of its value, and the Employee is left 'less than fully reimbursed'
9 for his or her lost wages."

10 WHEREFORE, Applicant requests that he be awarded benefits under Labor Code Section 132a,
11 including:

- 12 ▪ Increased compensation;
- 13 ▪ Reinstatement;
- 14 ▪ Reimbursement for lost wages and work benefits caused by said Defendant's act such work
15 benefits to include, but not limited to, cost-of-living increases, accrued vacation and sick
16 leave benefits, the Employer's portion of the Unemployment tax, enhancement of retirement
17 benefits;
- 18 ▪ And pre-Award interest on all back pay.

19 Dated: 1/25/2020

20 Respectfully Submitted:
21 LAW OFFICES OF NATALIA FOLEY.

22 BY NATALIA FOLEY, ESQ
23 Attorney for Applicant
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9
10 RAYMOND KENDRICK

Case No. ADJ11362261

11 Applicant,

VERIFICATION

12 vs.

13
14 THE HOME DEPOT

15 Defendants.

16
17 I, NATALIA FOLEY, declare as follows

18 I am one of the attorneys for Applicant in this action. I have read the enclosed PETITION
19 FOR DISCRIMINATION BENEFITS PURSUANT TO LABOR CODE SECTION 132 (A) and
20 know its contents.

21 All facts alleged in the PETITION FOR DISCRIMINATION BENEFITS PURSUANT TO
22 LABOR CODE SECTION 132 (A) CASE are true of my own personal knowledge or with respect
23 to those facts which are alleged upon information and belief, I am informed of the same and believe
24 the same to be true.

25 I declare under penalty of perjury that the foregoing is true and correct and that this
26 declaration was executed at Anaheim, California.

27 Respectfully submitted,

28 Dated: 1/25/2020

Respectfully Submitted:
LAW OFFICES OF NATALIA FOLEY

BY NATALIA FOLEY, ESQ
Attorney for Applicant



