

FILED
COURT OF APPEALS
DIVISION II

2017 OCT 27 PM 1:15

STATE OF WASHINGTON

BY CRd
DEPUTY

NO. 50566-5-II
COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION II

ALFREDO SUAREZ, *APPELLANT*,

v.

TOPBUILD, ET AL, *RESPONDENT*.

BRIEF OF APPELLANT

BUSICK HAMRICK PALMER PLLC
STEVEN L. BUSICK
Attorneys for Appellant/Plaintiff

By Steven L. Busick, WSBA #1643
Busick Hamrick Palmer PLLC
PO Box 1385
Vancouver, WA 98666
360-696-0228

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INTRODUCTION

Alfredo Suarez appeals the denial of his motion for continuance of the jury trial to an available third day when there had been delays in the presentation of testimony and jury had only been given twenty minutes to deliberate.

ASSIGNMENT OF ERROR

1. Did the trial court abuse its discretion for irregularities occurring during the course of the jury trial?
2. Did the trial court deny Alfredo Suarez a full opportunity to be heard in superior court pursuant to RCW 51.52.115?
3. Did the trial court deny Mr. Suarez due process of law under the Fourteenth Amendment to the United States of Constitution and the Washington State Constitution, Article 1, section 3?

STATEMENT OF THE CASE

The appellant, Alfredo Suarez, has a second grade education in Mexico, has had no vocational training in Mexico or the United States, and commenced work in Mexico as a farm laborer. Mr. Suarez came to the United States in 1979. Mr. Suarez does not read or write in Spanish or English, and only speaks Spanish. Mr. Suarez was a farm laborer in California from 1979 to 1997. After moving to Vancouver, Washington,

Mr. Suarez was a conveyor feeder and plastic mold injector operator for Panasonic from 1997 to 2002 until they closed operations in Vancouver. Mr. Suarez commenced work for the self-insured employer, Masco Corporation, which became TopBuild, as an insulation installer in 2002, installing insulation in residential and commercial buildings; in attics, in crawl spaces, beneath houses and underneath sub-floors. The job is classified as heavy labor according to the vocational rehabilitation counsel who testified for the employer. (Clerks Papers No. 6, Certified Appeal Board Record, T Martin, page 6, line 20; page 12, line 1 and 19; page 13, line 11, 17, and 24; page 14, lines 8, 15, 18, and 24; and A. Suarez, page 57, line 22)

On June 27, 2012, Mr. Suarez had driven a Masco truck from Vancouver, Washington to Happy Valley, Oregon, to install insulation in a new home under construction. About 10:00 a.m., Mr. Suarez was unloading bundles of insulation each containing five bags of insulation. As he was rolling one of the bundles to the home for installation, there was a two foot deep trench off to the right of the walkway. A bundle hit a corner, and to keep the bundle from falling, Mr. Suarez reached out with his right arm to grab the bundle. As he reached out, Mr. Suarez felt something pull in the back of his neck, and his right shoulder felt like it was stuck. Mr. Suarez

continued working until the job was complete, but another worker finished insulating the house. By that time, his neck and right shoulder were hurting worse, and his right fingers were numb. (CP No. 6, CABR, page 58, lines 10 and 14; page 59, lines 17, 20, and 22; page 60, line 17; page 63, line 14 and 22; page 64, lines 2, 7, 9, and 11; and page 65, lines 20 and 22).

In driving the Masco truck back to Vancouver, Mr. Suarez could not turn to the right side. Mr. Suarez parked the truck at the Masco in Fruit Valley, and drove home. After arriving home in Vancouver, Mr. Suarez's neck, right shoulder, and arm were in unbearable pain, and he could not sit or stand. His wife, Luz Carrillo, insisted that they go to the emergency room, and Mr. Suarez's step son drove them to Southwest Washington Medical Center. There a magnetic resonance imaging was performed and pain medication was prescribed. Mr. Suarez had surgery on his neck followed by surgery on his right shoulder. Mr. Suarez had physical therapy and returned to work light duty, separating work orders for four hours a day for three months. Mr. Suarez is right handed, but could not use his right arm due to ongoing pain in his the right shoulder and arm, and was forced to use his left arm. Mr. Suarez developed left shoulder pain, could not lift his left arm, and discontinued working. (CP No. 6, CABR, A. Suarez, page 58, lines 13, 17, 20, and 22; lines 5 and 23; page 70, lines 2, 7, 9, 11, and 22; page 71,

lines 3 and 10; page 80, lines 18 and 23; page 80, lines 12,16,18,20, and 24; page 81, lines 5 and 17; page 85, lines 14 and 21; page 97, line 20; and L. Carrillo, page 108, line 21).

Mr. Suarez has had diabetes for fifteen years and has been taking Metformin since he was diagnosed. For the last eight years, Mr. Suarez has been injecting twelve units of Novolog insulin twice a day, morning and evening. Mr. Suarez treats at SeaMar Clinic in Vancouver, and has a glucose meter to check his blood sugar levels at home. Every three months, his blood sugar level is checked at SeaMar. Mr. Suarez's diabetes did not affect his work at Masco. Luz Carrillo has known Mr. Suarez since 2001. After they met, Ms. Carrillo recalls one time when Mr. Suarez was shaking, but then he had something to eat and was fine. There was also a time after June 27, 2012, when Mr. Suarez developed diarrhea and stopped taking Metformin for a week. (CP No. 6, CABR, A. Suarez; page 71, lines 15, 17, 19, 21, 23, and 25; page 72, lines 5, 13, and 15; page 73, lines 6,10, and 15; page 74, lines 4,9,11; L. Carrillo, page 101, line 11; page 102, line 12 and 16; page 103, line 21; and page 104, line 3).

The self-insured employer Masco Corporation would not pay Mr. Suarez's time loss benefits after he discontinued light duty work at Masco Corporation in the summer of 2013. On December 19, 2014, the Department

of Labor and Industries entered an order that required the self-insured employer to pay time loss benefits from October 13, 2013, after Mr. Suarez changed attending physician to Richard Heitsch, MD, through December 10, 2014. The Order dated December 19, 2014, was entered after the employer dismissed their appeal to the Board of a Department order dated April 7, 2014, allowing Mr. Suarez to change attending physicians to Dr. Heitsch. The order dated December 19, 2014, copy attached as Appendix "A", is the order that the employer appealed to the Board of Industrial Insurance Appeals, was reversed by the Board, and then appealed to Superior Court, on which the jury rendered its verdict over the objection of counsel to continue the trial to the following morning for the Court's instructions and oral argument by counsel. (CP No. 6, CABR, pages 63, 73, and 74).

Between October 11, 2013, and December 10, 2014, Ms. Carrillo testified that her husband was not able to help around the house, and he went grocery shopping with her, but was not able to lift bags of groceries. He appeared to be in pain with little activity, is up at night, and sleeps on the couch in the living room so she can maintain her two jobs outside of the home cleaning at the Applebee's and 24-Hour Fitness. Victor Arreola is Mr. Suarez's 25 year old nephew, and between October 11, 2013, and December

10, 2014, he would help him dress, would take him to his doctor appointments, and would try to get him out of the house as much as possible. Mr. Arreola spent a lot of time with Mr. Suarez before the injury on family outings, going camping, swimming and fishing, and Mr. Suarez was fun to be around, but since the injury on June 27, 2012, he appears to be depressed. (CP No. 6, CABR, L. Carrillo, page 101, line 18; page 107, lines 7 and 17; page 108, line 3; page 112, lines 2, 4 and 18).

Dr. Heitsch was the sole expert witness called to testify for Mr. Suarez. Dr. Heitsch commenced treatment of Mr. Suarez in September 2013, for pain in his neck, and pain and stiffness in his shoulders. Prior to treating with Dr. Heitsch, a neurosurgeon had performed a C6-7 cervical microdiscectomy in November 2012. After the neck surgery, Mr. Suarez continued to have pain and weakness down his right arm. Mr. Suarez then had a steroid injection into his right bicep and physical therapy. An MRI of the right shoulder did not show an injury, but Mr. Suarez was diagnosed with significant right shoulder dysfunction and weakness secondary to the neck surgery. On July 2013, an orthopedic surgeon performed surgery on Mr. Suarez's right shoulder to break up adhesions that had developed. (CR No. 6, CABR, Dr. Heitsch page 5, line 19; page 6, line 14; Dr. Fossier, page

18, lines 19, and 25; page 23, lines 5 and 7, page 49, line 6; and page 50, lines 8 and 13)

After the right shoulder surgery, Mr. Suarez had been cleared to return to work by his then doctor, and tried to use his left arm to perform tasks that he usually did with his dominant right arm. His left shoulder became painful, the pain progressed, and Mr. Suarez was not able to continue working because of pain and immobility. Mr. Suarez was having considerable difficulty sleeping because of the pain, and he was taking Narco based on Hydrocodone. Dr. Heitsch understood that Mr. Suarez had been treated for a number of years for Type-2 diabetes. On physical examination, Dr. Heitsch found tenderness in Mr. Suarez's neck, stiffness and muscle spasm. Cervical flexion and extension was restricted, and he had weakness of 4 over 5 against resistance. Mr. Suarez had moderate tenderness in his right shoulder, and held his right shoulder noticeably lower than the left. Dr. Heitsch found limited range of motion of Mr. Suarez's right shoulder, and 4 plus over 5 weakness in all planes, which was less strength than the neck. With the left shoulder, Dr. Heitsch found moderate to marked tenderness, and considerable muscle spasm. Range of motion of the left shoulder was restricted, but a little better than the right. Strength of the left shoulder was 4 plus over 5, except for external rotation which was

4 over 5. (CP No. 6, CABR, Dr. Heitsch, page 10, line 5; page 6, lines 12 and 27; page 12, lines 1,8,16 and 25; page 13, lines 7,16, and 24; page 14, lines 3, 9, and 11.)

Dr. Heitsch diagnosed adhesive capsulitis of the right shoulder and rotator cuff strain of the left shoulder related to the work injury of June 27, 2012, and requested an MRI of the left shoulder. Dr. Heitsch saw Mr. Suarez back on October 10, 2013. His neck pain was modest, his right shoulder remained frozen and painful, but his left shoulder was the most painful, and the pain medication was not sufficient to control his pain. Dr. Heitsch recommended physical therapy and took Mr. Suarez off work. The MRI of the left shoulder showed no structural tears, but extensive inflammation in the form of tendonitis. Dr. Heitsch continued to see Mr. Suarez every two weeks to a month and his off work status continued through December 10, 2014. As of January 2014, Mr. Suarez had started physical therapy, but as of February 2014 physical therapy was disapproved, and Dr. Heitsch continued to request physical therapy, but it was never approved again. (CP No. 6, CABR, page 15, lines 4 and 19; page 16, lines 1,8, 12, and 20; page 18, line 12; page 19, lines 2; page 20, lines 3 and 7; page 21, line 2; and page 22, line 9).

The testimony of employer's three doctors who testified at hearing before the Board was read to the jury during the second day of the trial. Clarence Fossier, MD, had examined Mr. Suarez on November 15, 2013, John Thompson, MD, had examined Mr. Suarez on November 24, 2014, and Thomas Rosenbaum, MD, had examined Mr. Suarez on January 30, 2015, all at the request of the employer. In his report, Dr. Fossier diagnosed a herniated cervical disk at C6-7, causally related to the work injury of June 27, 2012, and postoperative development of adhesive capsulitis, or frozen shoulder, of the right shoulder, secondary to his immobilization following neck surgery, and therefore causally related to the industrial injury on a more probable than not basis. Before he testified, Dr. Fossier was provided the report of the medical evaluation by John Thompson, MD, who Dr. Fossier testified disagreed with him on the cause of his right adhesive capsulitis, and so Dr. Fossier disagreed with himself. (CP No. 6, CABR, Dr. Fossier page 10, line 10; page 30, lines 15 and 21; page 31, lines 7 and 15; and page 32, line 10).

Dr. Thompson diagnosed right sided C6-7 disc protrusion and subsequent surgery, and right shoulder arthroscopy and arthroscopic capsulotomy processed under the first diagnosis, but then testified that the frozen shoulder development spontaneously from his preexisting diabetes

rather than from his neck surgery, though there was no evidence provided that Mr. Suarez was running abnormally high blood sugar levels. Dr. Rosenbaum diagnosed a herniated disc at 6-7 on the right side from the injury of June 27, 2012. Dr. Rosenbaum testified that he did not have employment restrictions related to his neck, but deferred to the orthopedic surgeons, Dr. Fossier and Dr. Thompson, as to the shoulders, which was beyond his expertise. (CP No. 6, CABR, Dr. Thompson, page 8, line 12; page 19, line 16; and page 38, line 3; Dr. Rosenbaum, page 10, line 5; page 24, line 18; and page 38, line 15).

The Department of Labor and Industries had issued the order dated December 19, 2014, attached as Appendix A, directing that the self-insured employer pay time loss benefits between October 11, 2013, and December 10, 2014¹. The employers appealed to the Board of Industrial Insurance Appeals, and an evidentiary hearing was held before an industrial appeals judge who issued a Proposed Decision and Order reversing the Department order. Mr. Suarez filed a Petition for Review and the employer filed a Response. The Board summarily denied the Petition for Review, and Mr.

¹ The significance of the Department order dated December 19, 2014, is that if Mr. Suarez is denied time loss benefits from October 11, 2013, through December 10, 2014, that may prevent him from ever receiving time loss benefits again or a pension, as Mr. Suarez has not returned to work.

Suarez appealed to Superior Court for Clark County. The case proceeded to a six person jury trial on April 24 and 25, 2017. (CP No. 6, CABR, pages 63, 58-59, 50-56, 19-25, 9-17, and 3).

At the commencement of the trial on Monday, April 24, 2017, trial court announced the trial schedule; from 9:00 a.m. to 12:00 p.m. with a 15 minute break around 10:15 or 10:30 a.m., and in the afternoon, starting at 1:30 p.m. and going until 4:30 to 5:00 p.m. with a fifteen minute break in between. Once the jury was impaneled at 11:00 a.m. the court advised the jury that the trial would probably break early for lunch, following opening statements, and reconvening at 1:00 p.m. with the reading of the testimony. The trial would continue until approximately 4:30 or 5:00 o'clock with at least one 15 minute midafternoon break. Trial the following morning will resume at 9:00 o'clock, and the jury will need to be in the jury room at 8:45 a.m. Starting promptly at 9:00 o'clock, the trial would go from 9:00 o'clock until noon. The typically lunch break is 12:00 to 1:30 (Report of Proceedings, page 1, lines 17 and 21, and page 2, lines 4, 12, 17, and 20).

The trial court then stated that they generally don't stay past 5:00 o'clock. The reason is there's some staffing and overtime issues for the courthouse here, so in order to avoid running up extra expenses they try to be out promptly by 5:00 o'clock. The trial continued that morning with the

opening statements of respective counsel. In the afternoon, the testimony of Alfredo Suarez the plaintiff, Luz Carrillo, his wife, Victor Arreola, his nephew, and Richard Heitsch, MD, his treating physician, was read to the jury by counsel. After plaintiff had rested, the testimony of defendant's first witness, Todd Martin, vocational rehabilitation counselor, was read to the jury, and court was recessed at 4:42 p.m. The trial court's concluding statement to the jury that day was that they needed to be back in the jury room at 8:45 a.m., in order to start promptly at 9:00 a.m. (CP page 2, line 25, and page 3, line 19.)

The next morning on Tuesday, April 25, 2017, the trial court scheduled other matters at 9:00 a.m., and the trial did not start until after 10:15 a.m. with the reading of the testimony of the defendant's medical witnesses, Clarence Fossier, MD, John Thompson, MD, and Thomas Rosenbaum, MD. The trial court broke for lunch just before noon, with the announced resumption at 1:30, but trial did not commence until 1:45 p.m. with the continued testimony of the defendant's doctors. When the testimony was concluded on the second day of the trial, the trial court announced a recess at 3:25 p.m. After the jury left the courtroom, the Mr. Suarez's counsel moved to continue the trial to the following day for jury instructions and oral arguments. Mr. Suarez's counsel maintained that the

jury would not receive the case until after 4:00 p.m., and would only have until 5:00 p.m. to deliberate. It would be better that the jury come back the following morning for the court's instructions and the arguments of respective counsel. The jury would then have the full day to deliberate, rather than feel rushed to conclude the deliberation by 5:00 p.m. that day. (RP, page 4, lines 3 and 24; page 5 lines 2, 7, 14, 15 and 25; and page 6, lines 4, 8, and 12).

Mr. Suarez's counsel maintained that the trial court had previously advised counsel that time was allotted to complete the trial the following morning, Wednesday, April 26, 2017, and in the interest of justice a continuance would be appropriate under the circumstances. Masco's counsel opposed the motion, and argued that the jury could take more time if they wanted. The trial judge immediately announced its ruling from the bench, and denied the motion, stating that it was in favor of good trial management, and the jurors had already given up two days to hear the case. The trial court acknowledged the jury had been advised that the trial could potentially take three days, and they could be informed that if they needed to come back tomorrow morning, they could do so. (RP, page 6, line 18, and page 7, lines 3, 7, 11, and 15).

The jury was brought back into the courtroom after 3:30 p.m. that day, and the trial court commenced reading instructions to the jury. At 3:49, plaintiff's closing argument commenced, and concluded at 4:12 p.m. Defendant's closing argument commenced at 4:12 p.m., and concluded at 4:32 p.m. Plaintiff's rebuttal argument commenced at 4:32 p.m., and concluded at 4:38 p.m. The jury did not retire to deliberate until 4:39 p.m., the jury was never advised that they could come back the next day to deliberate. The jury announced their verdict, counsel assembled, the court clerk was called, the jury was brought back into the courtroom and returned the verdict at 5:08 p.m. in favor of the defendant Masco Corporation (RP, page 7, line 22; page 8, lines 11, 15, 18, 22, and 24; page 9, line 8, and CP No. 16)

ARGUMENT

After an hour and fifteen minute delay in the commencement of trial on the second day due to the trial court hearing other matters not related to the trial, and another related fifteen minute delay prior to commencement in the afternoon session, the testimony was not concluded until mid-afternoon that day. All of the testimony that second day was the reading of the three doctors testimony who had examined Mr. Suarez at the request of the employer. Mr. Suarez's only medical witness was Dr. Heitsch, the attending physician,

whose testimony had been read to the jury the previous day. With the expectation that the jury would not receive the case until after 4:00 p.m., with 5:00 p.m. limit placed on deliberations, Mr. Suarez's counsel moved for a continuance of the trial to the following morning which was available to the trial court and counsel. The courts instructions, the closing arguments, and the jury deliberation could then proceed unhindered by the 5:00 p.m. courthouse closing. By the time the jury received the case, they only had twenty minutes to deliberate on a case that took two days to try.

A trial judge presiding at a jury trial is not restricted to the function of a mere umpire in a contest between opposing counsel. He is charged by law and conscience with the fundamental duty of seeing that truth is established and justice is done under the statutes and rules of law. His control of the situation should be manifest and complete at all times. All matters related to the orderly conduct of the trial, which are not regulated by statute or rule, are within the sound discretion of the trial judge. *Tally v. Fournier*, 3 Wn. App. 808, 819, 479 P.2d 96 (1979). Irregularities occurring during the course of a trial are reviewed under the abuse of discretion standard. *Eagle Pac. Ins. Co. v. Christensen*, 85 Wn. App. 695, 934, 834 P.2d 715 (1997).

Judicial discretion means a sound judgment exercised with regard to what is right under the circumstances and without doing so in an arbitrary or

capricious manner. A decision involving discretion on appeal will only be disturbed on a clear showing its abuse; that is discretion that is manifestly unreasonable, exercised on untenable grounds, or for unreasonable reasons. *State Ex Rel. Carroll v. Junker*, 79 Wn. 2d 12, 26, 482 P.2d 775 (1971). An abuse of discretion occurs where it can be said that no reasonable person would take the view adopted by the trial court. *Eagle Pac. Ins. Co. v. Christensen*, 85 Wn. App. at page 707. The denial of the motion to continue the trial to the following morning was manifestly unreasonable, and no reasonable trial judge would have denied the motion under the circumstances.

Jury trials in superior court on worker compensation appeals under the Industrial Insurance Act are governed by RCW 51.52.115. In all court proceedings, the findings shall be *prima facie* correct, and the burden of proof shall be upon the party attacking the findings, namely Mr. Suarez. This language is interpreted to mean that there is a presumption on appeal that the decision of the Board is correct until the trier of fact determines that it is incorrect by a preponderance of the evidence, and the jury is so instructed. *WPI 155.03*. The special verdict form in worker compensation appeals is used with each question beginning, "Was the Board correct in deciding . . ." *WPI 155.14*. RCW 51.52.115 also provides that the parties shall be given a full opportunity to be heard in Superior Court. Mr. Suarez was not given a full

opportunity to present his case by the restrictions placed on the proceeding by the trial court in limiting jury deliberation.

The Fourteenth Amendment to the United States Constitution provides that no state shall deprive any person of life, liberty, or property without due process of law. Article 1, Section 3, of the Washington State Constitution likewise states that no person shall be deprived of life, liberty, or property without due process of law. While federal cases are not necessarily controlling, they should be given great weight in construing the Washington State due process provision. In so far as the due process clauses, if the Fourteenth Amendment provides greater protection than does Article 1, Section 3, the Federal Constitution must prevail. *US Constitution, Article 6. Olympia Prod. v. Chaussee Corp.* 82 Wn 2d 418, 421, 511 P.2d 1002 (1973). Wages are considered a specialized type of property presenting distinct problems in our economic system to which the Fourteenth Amendment applies. *Sniasach v. Family Finance Corp*, 89 S.Ct. 1820 (1969). Time loss benefits are considered a replacement of earnings or wages and therefore property. *Energy NW v. Hartie*, 148 Wn. App. 454, 466, 199 P. 3d 1048 (2009) *Kaiser Aluminum v. Overdorf*, 57 Wn. App. 291, 295-296, 788 P.2d 291 (1990)

Due process is not a mechanical or as a mechanical instrument. It is not a yardstick. It is a delicate process of adjustment, inescapably involving the exercise of judgment by those whom the constitution entrusted with unfolding of the process. *Joint Anti-Fascist Refugee Comm. v. McGrath*, 341 US 123, 162, 95 L. El. 1817, 71, S, Ct, 624 (1951). By announcing to the jury at the commencement of trial:

We generally don't stay be- past 5:00 o'clock. The reason is there's some staffing and overtime issues for the courthouse here so in order to avoid running up expenses we try to be out promptly by 5:00 o'clock. (RP, page 2, line 25)

had a chilling effect on Mr. Suarez's due process right to a full trial that was to commence at promptly at 9:00 a.m. on the second day and did not resume until 10:15 a.m., when all the second day consisted of was the defendant's doctors testimony refuting Mr. Suarez's claim to time loss benefits. Had the motion to continue the case to an available third day of trial, there would have been a cooling off period, the jury would have slept on what they had heard over the course of the two days, not just the second, and there would not have been a rush to judgement to conclude deliberation by 5:00 p.m. as announced by the trial court.

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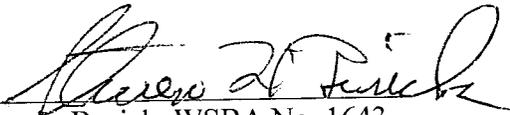
ATTORNEYS FEES

Mr. Suarez maintains that if he prevails on appeal and on retrial in Superior Court, pursuant to RCW 51.32.130, he should be awarded his reasonable attorney fees payable by the self-insured employer, Topbuild, et al.

CONCLUSION

The trial court abused its discretion by not granting appellant's motion for continuance, and Mr. Suarez was denied his due process right to a full and fair hearing. Mr. Suarez should be granted a new trial in superior court.

Dated: October 25, 2017.


Steven L. Busick, WSBA No. 1643
Attorney for Alfredo Suarez, Appellant

FROM:
STATE OF WASHINGTON
DEPARTMENT OF LABOR AND INDUSTRIES
DIVISION OF INDUSTRIAL INSURANCE
SELF-INSURANCE SECTION
PO BOX 44892
OLYMPIA WA 98504-4892
FAX (360) 902-6900

MAILING DATE: 12/19/14
CLAIM ID : SB45649
CLAIMANT : ALFREDO SUAREZ
EMPLOYER : MASCO CORPORATION
INJURY DATE : 6/27/12
SERVICE LOC :
UBI NUMBER : 600-449-288
ACCOUNT ID : 706215-00
RISK CLASS : 0512-00

WORK LOCATION ADDRESS:
NO ADDRESS REPORTED

ALFREDO SUAREZ
BUSICK HAMRICK, PLLC
PO BOX 1385
VANCOUVER WA 98666-1385

ORDER AND NOTICE (SELF INSURING EMPLOYER)

*
* THIS ORDER BECOMES FINAL 60 DAYS FROM THE DATE IT IS COMMUNICATED *
* TO YOU UNLESS YOU DO ONE OF THE FOLLOWING: FILE A WRITTEN REQUEST *
* FOR RECONSIDERATION WITH THE DEPARTMENT OR FILE A WRITTEN APPEAL *
* WITH THE BOARD OF INDUSTRIAL INSURANCE APPEALS. IF YOU FILE FOR *
* RECONSIDERATION, YOU SHOULD INCLUDE THE REASONS YOU BELIEVE THIS *
* DECISION IS WRONG AND SEND IT TO: DEPARTMENT OF LABOR AND *
* INDUSTRIES, PO BOX 44892, OLYMPIA, WA 98504-4892. WE WILL REVIEW *
* YOUR REQUEST AND ISSUE A NEW ORDER. IF YOU FILE AN APPEAL, SEND *
* IT TO: BOARD OF INDUSTRIAL INSURANCE APPEALS, PO BOX 42401, *
* OLYMPIA WA 98504-2401 OR SUBMIT IT ON AN ELECTRONIC FORM FOUND AT *
* HTTP://WWW.BIIA.WA.GOV/. *
*

The self-insured employer is directed to pay time-loss benefits for the period 10/11/13 through 12/10/14.

MAILING DATE: 12/19/14
CLAIM ID : SB45649
CLAIMANT : ALFREDO SUAREZ
EMPLOYER : MASCO CORPORATION
INJURY DATE : 6/27/12
SERVICE LOC :
UBI NUMBER : 600-449-288
ACCOUNT ID : 706215-00
RISK CLASS : 0512-00

WORK LOCATION ADDRESS:
NO ADDRESS REPORTED

YVONNE MONTAGUE
CLAIMS ADJUDICATOR
SELF INSURANCE SECTION
PO BOX 44892
OLYMPIA, WA 98504-4892
(360) 902-6885
FAX #: (360) 902-6900

ORIG: CLAIMANT: ALFREDO SUAREZ
BUSICK HAMRICK, PLLC, PO BOX 1385,
VANCOUVER WA, 98666-1385
EMPLOYER: MASCO CORPORATION
C/O CONSTITUTION STATES SERVICE CO, PO BOX 6890,
PORTLAND OR, 97228-6890
ATTENDING PHYSICIAN: HEITSCH RICHARD C MD
INTEGRATED MEDICINE GROUP, 163 NE 102ND AVE BLDG V,
PORTLAND OR, 97220-4169
EMPLOYER'S ATTORNEY: JAMES L GRESS
9020 SW WASHINGTON SQ RD #560, PORTLAND OR, 97223-4518

FILED
COURT OF APPEALS
DIVISION II

2017 OCT 27 PM 1:15

STATE OF WASHINGTON

BY
DEPUTY

WASHINGTON STATE COURT OF APPEALS
DIVISION II

ALFREDO SUAREZ,)	No. 50566-5-II
)	
Appellant,)	
)	PROOF OF SERVICE
v.)	
)	
TOPBUILD, et al,)	
)	
Respondent.)	

The undersigned states that on Thursday, October 25, 2017, I served via US mail, as indicated below, Brief of Appellant, as attached, addressed as follows:

Counsel for Respondent	(x) U. S. Mail
James L. Gress	
The Law Office of Gress and Clark	
9020 SW Washington Square Road, Suite 560	
Portland, Oregon 97223	

Anastasia Sandstrom, Sr. AAG	(x) U.S. Mail
Attorney General for the State of Washington	
800 Fifth Avenue, Suite 2000	
Seattle, WA 98104-3188	

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated: October 25, 2017.


 Steven L. Busick, WSBA #1643
 Attorney for Alfredo Suarez, Appellant

Attorneys

Steven L. Busick
Frances R. Hamrick
Douglas M. Palmer
David C. Johansen

Busick Hamrick Palmer PLLC

1915 Washington Street
PO Box 1385
Vancouver, WA 98666-1385
Telephone (360) 696-0228
Fax (360) 696-4453

Legal Assistants
Maggie Gutierrez
Shawn Haggerty

Receptionist
Heather Hash

Bookkeeper
Rita Coombs

October 25, 2017

David M Byrne, Court Clerk
Washington State Court Of Appeals
Division II
950 Broadway, Suite 300
Tacoma, WA 98402-4454

Re: Alfredo Suarez, Appellant v. TopBuild, et al, Respondent
Court of Appeals Case No. 50566-5-II

Dear Mr. Byrne:

Enclosed please find an original and copy of the Brief of Appellant for filing with a Proof of Service.

Sincerely,



Steven L. Busick

SLB/sh

Enclosures

cc: James L. Gress, Attorney (w/enclosures)
Anastasia Sandstrom, Sr. AAG (w/enclosures)

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