

LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD

STATE OF HAWAII

JONATHAN AHSING,)
)
 Claimant-Appellee,)
)
 vs.)
)
 MARC HAINE, INC.,)
)
 Employer-Appellant,)
)
 and)
)
 TRADEWIND INSURANCE)
 COMPANY, LTD.)
)
 Insurance Carrier-)
 Appellant,)
)
 and)
)
 ISLAND INSURANCE COMPANY,)
 LTD.,)
)
 Insurance Adjuster-)
 Appellant.)

CASE NO.: AB 2023-040
DCD No.: 2-21-55560

D/A: December 6, 2021

Jan 22 2025, 11:23 am

FILEDSM

Labor and Industrial Relations
Appeals Board

ORDER OF DISMISSAL

On March 29, 2023, Employer MARC HAINE, INC. appealed the Director’s March 15, 2023 Decision to the Labor and Industrial Relations Appeals Board (“Board”).

On April 17, 2024, the Board approved and filed a Compromise and Settlement Agreement by and between Employer and Claimant JONATHAN AHSING, who was then represented by Anson O. Rego, Esq. In relevant part,

Claimant agreed to waive his right to indemnity benefits and to withdraw his request for surgery with Dr. William Beringer, and the settlement included payment of permanent partial disability benefits and disfigurement benefits to Claimant. The Settlement Agreement also provided that the appeal herein was dismissed with prejudice.

On May 16, 2024, Claimant, by and through his attorney, Mr. Rego, filed a Motion to Amend Compromise and Settlement Agreement (“motion”). Also on May 16, 2024, Claimant filed an Amended Exhibit A, referencing his motion. A hearing on Claimant’s motion was set for June 27, 2024 at 10:00 a.m.

On May 23, 2024, Employer filed a Statement of No Position relative to Claimant’s motion.

On or about May 30, 2024, Claimant passed away, according to Mr. Rego.

The Board has not received written notice from Anson O. Rego, Esq. that he is no longer representing Claimant. The Board, however, recognizes that, as a general rule, the authority of counsel to proceed with a case is terminated upon the death of the party being represented. *Bagalay v. Lahaina Restoration Foundation*, 60 Haw. 125 (1978).

Although Mr. Rego, on Claimant’s behalf, filed a Notice of Withdrawal of Claimant’s motion on June 20, 2024, the Board cannot recognize this pleading because Mr. Rego did not possess the authority to proceed with this case on Claimant’s behalf.

On July 31, 2024, the Board issued an Order Holding Case in Abeyance. The Order Holding Case in Abeyance ordered that this appeal be held in abeyance until November 29, 2024, pending the Board's receipt of a written appearance by a court-appointed personal representative or special administrator of Claimant's estate (the Estate of JONATHAN AHSING). The Order stated that the deadline for the Board's receipt of this written appearance was November 29, 2024.

On December 3, 2024, pursuant to the Board's July 31, 2024 Order, Employer submitted the Declaration of Darlene Y.F. Itomura, confirming that a personal representative or special administrator of Claimant's estate was not appointed on or before November 29, 2024.

On January 9, 2025, the Board issued an Order Regarding Proceedings on Appeal.

On January 14, 2025, Employer, in response to the Board's January 9, 2025 order, entered its Statement Regarding Appeal, wherein Employer informed the Board that Employer will not proceed with its appeal, herein.

To date, no court-appointed personal representative or special administrator of Claimant's estate has appeared in this appeal.

Accordingly,

IT IS HEREBY ORDERED that the "COMPROMISE AND SETTLEMENT AGREEMENT; EXHIBITS "1" TO "3"; WAIVER OF RIGHT TO BE

HEARD; APPROVAL AND ORDER” filed and approved by the Board on April 17, 2024 stands as originally approved and filed.

IT IS FURTHER ORDERED that all proceedings before this Board in the above-entitled cause be and hereby are dismissed.

Dated: Honolulu, Hawai‘i,

Jan 22 2025



DAMIEN A. ELEFANTE, Chair

EXCUSED

MARIE C.L. LADERTA, Member



HARRY YEE, Member

Jonathan Ahsing v. Marc Haine, Inc., et al.; AB 2023-040; Order of Dismissal

Darlene Y.F Itomura, Esq.
For Employer/Insurance
Carrier/Adjuster-Appellant

A certified copy of the foregoing was served upon the above-captioned parties or their legal representatives on the date of filing noted above.

Order mailed: Jan 22 2025

LABOR APPEALS BOARD - 830 PUNCHBOWL ST, RM 404, HONOLULU, HI 96813 - (808)586-8600

If you need a language interpreter or if you need an auxiliary aid/service or other accommodation due to a disability, please contact the Board at (808) 586-8600 and/or dliir.appealsboard@hawaii.gov as soon as possible, preferably at least ten (10) business days prior to your hearing or conference date. Requests made as early as possible have a greater likelihood of being fulfilled. If a request is received after the reply date, the Board will try to obtain the interpreter, auxiliary aid/service, or accommodation, but the Board cannot guarantee that the request will be fulfilled.

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This certifies that the foregoing is a full, true, and correct copy of the original on file in this office.

/s/ S. Macarayan for LIRAB