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Worker's Compensation

University of the Pacific; McGeorge School of Law

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Worker's Compensation

Workers' Compensation; uninsured employers fund

Labor Code §§ 3715, 3717, 5106 (amended).
AB 1053 (Bader); 1987 STAT. Ch. 202

Existing law specifies that if an employer¹ fails to pay compensation² to an entitled employee,³ then an award must be paid to the injured⁴ employee or the employee's dependents⁵ from the Uninsured Employers Fund.⁶ Chapter 202 provides that any claim brought against an employer under existing law may be resolved by the Director of Industrial Relations (director) by compromise and release⁷ or stipulated findings and award⁸ so long as the Worker's Compensation Appeals Board (WCAB)⁹ has acquired jurisdiction over the employee.¹⁰ Chapter 202 further provides that notice¹¹ of the action must be given to the employer and the employer must have an opportunity to object.¹² If the employer objects, Chapter 202 permits the director to proceed with the compromise and release or stipulate findings and award if such action best serves the interests of the

1. CAL. LAB. CODE § 3300 (definition of employer).

2. *Id.* § 3207 (definition of compensation).

3. *Id.* § 3351 (definition of employee). *See id.* § 3352 (persons excluded from being an employee).

4. *Id.* § 3208 (definition of injury).

5. *Id.* §§ 3501 (persons conclusively presumed wholly dependent), 3502 (determination of dependency questions), 3503 (requisite relationship).

6. *Id.* § 3716(a).

7. *See id.* §§ 5000-5005 (rules and regulations on compromise and settlement).

8. *See id.* §§ 5800-5815 (rules and regulations on findings and awards).

9. *Id.* § 3205.5 (definition of WCAB).

10. *Id.* § 3715(e); *see id.* § 5301 (jurisdiction of WCAB). *See generally* Flores v. Workmen's Compensation Appeals Bd., 11 Cal. 3d 171, 520 P.2d 1033, 113 Cal. Rptr. 217 (1974) (the Uninsured Employers Fund was required to pay attorneys' fees assessed against an employer because of the employer's willful failure to secure worker's compensation).

11. *See* CAL. LAB. CODE § 3715(e) (service on the employer of an WCAB appeals board notice of intention to approve the compromise and release or stipulated findings and award).

12. *Id.* The employer must have 20 days after service of the notice of intention to file an objection with the WCAB. *Id.*

Uninsured Employers Fund.¹³ Under Chapter 202, however, the director will not have a cause of action¹⁴ unless the WCAB has found the employer liable.¹⁵ Furthermore, an approved compromise and release or stipulated finding and award entered into by the director is a liquidated claim for damages and the director may bring a civil action against the employer to collect the award.¹⁶

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13. *Id.*

14. *See id.* (the director does not have a cause of action under California Labor Code section 3717).

15. *Id.*

16. *Id.* § 3717(a).