CAPEHART SCATCHARD
ATTORNEYS AT LAW

Lora V. Northen
856.234.6800
lnorthen@capehart.com

March 18, 2008

Ms. Colleen McLean
D & H Alternative Risk Solutions
PO Box 68
Newton NJ 07860

Re: Doreen Crincoli v. Twp of Berkeley Heights
Claim Petition No. 2006-12867; 2006-12870; 2006-26168; 2006-26170
Our File No. 2013-34606
Claim No. SWM021247
Assigned Attorney: Lora V. Northen
Assigned Paralegal: Pamela B. Tate

Dear Colleen:

The above-captioned matters appeared before Judge Dietrich in New Brunswick on Tuesday, March 11, 2008. At that time, all claim petitions as to all respondents and insurance carriers were resolved. I am attaching to this correspondence, copies of the two Orders that specifically refer to the claim petitions that were filed against Berkley Heights, through D&H Alternative Risk Solutions and New Providence through their insurance carrier Selective.

For the purposes of settlement, since the petitioner was employed simultaneously with both of the respondents and alleges the same claims against both respondents, the Judge consolidated all claim petitions on a single Order for the Section 20 settlement as it relates to the hand claim and on the Order Approving Settlement as it relates to the right shoulder. Each respondent is to pay only one-half of the overall settlement and the fees and costs associated with that settlement. For example, although the Section 20 settlement for the hand is $5,000.00, as to Berkley Heights through D&H, you only pay half of that or $2,500.00. Likewise, as to the right shoulder claim, that claim resolved for 25% permanent partial total disability overall with a credit for 20%, leaving new money due of $7,734.00. However, again, your responsibility is only one-half of that amount. Therefore, in accordance with the attached Orders, please issue the following drafts:

Regarding the Section 20 settlement:

1. **To the petitioner, $2,000.00**. This represents one-half of the $5,000.00 awarded or $2,500.00 less one-half of the counsel fees or $500.00 leaving the net balance for your responsibility to the petitioner of $2,000.00.

2. **To petitioner's attorneys, $500.00** representing one-half of the assessed counsel fees.

   Samuel Rothfeld, Esq.
   576 Central Avenue
   Suite 200
   East Orange, NJ 07018
   (Tax ID #52-211830)

mmt 5/9/08

3. **To John F. Trainor, Inc., $87.50** representing again one-half of the stenographic services.

4573 South Broad Street
Trenton, NJ 08610
(Tax ID #21-0687611)

Regarding the Order Approving Settlement for the right shoulder, please issue the following drafts:

1. **To the petitioner, $3,557.00.** This represents one-half of the award or $3,867.00 less the following deductions: $310.00 representing one-half of petitioner's share of counsel fees. This leaves the net balance due pursuant to our share of this award in the amount of $3,557.00.

2. **To petitioner's attorneys, $772.50.** This represents one-half of the counsel fees due petitioner. (Again, co-respondent, New Providence, as insured through Selective, will pay the other half of this award and fees and costs).

(see address above)

3. **To John F. Trainor, Inc., $87.50** representing one-half of the cost of the stenographic services.

(see address above)

Please note that as of January 17, 2007, all Orders for Settlement or Judgment, must be paid within 60 days of the date of the Order.

As you are aware, the petitioner had filed numerous claims. These were claims for injuries to her right and left shoulders as a result of her years of instruction as a gymnastics teacher for both Berkley Heights and New Providence, each on a part-time basis, a claim for an occupational hernia, as well as a claim for an injury to her hand. The first matter of business was determining when each of these conditions manifested themselves and under whose period of coverage and employment. Ultimately, it was determined that the only potential exposure that Berkley Heights, as insured through D&H had was on the hand claim and the right shoulder claim. Ultimately, we were able to resolve both of those claims for the settlements as outlined in these Orders.

On the day of the listing, the petitioner appeared. As to your settlements, the petitioner testified that she is fully aware regarding the Section 20 settlement that this concludes the case for her hand for good. She knows that she can never again return to Berkley Heights or D&H for any further benefits regarding the injury to her hand.

As to the right shoulder, the petitioner testified that she does have ongoing complaints to the shoulder. She has noticed that since the original surgery which formed the basis for the credit of 20% partial total disability on the shoulder, she has had increased complaints with use of her shoulder at work. She notes that she has to often hang from the bars and this causes her pain and discomfort in the shoulder. The petitioner testified that she does a lot of push-ups and that causes further pain and discomfort in the shoulder. All of these activities are absolutely essential for her job and she has noticed that she is having greater and greater difficulty doing those activities because of the increasing problems with her shoulder. The petitioner testified that the range of motion in her shoulder has also been affected.

There was substantial additional testimony regarding the petitioner's alleged hernia claim and her left shoulder, however, again, while Berkley Heights participated in those settlements as well, they participated through their prior insurance carrier, Selective and not through D&H.

The petitioner does continue in the employ of Berkley and New Providence. I note that, at present, it appears D&H is still on the risk for Berkley Heights. This petitioner is having ongoing complaints to her left and right shoulder. Since D&H is now on the risk, I believe that you still face continued potential exposure not only for the right shoulder, which was part of the settlement in this case, but also now for the left shoulder since the petitioner is testifying as to the left shoulder that as she continues to use that shoulder with her job, she is having increased complaints for that shoulder as well. Since Selective is now off the risk, any additional disability that the petitioner can prove is related to her job duties since January of 2004 as it relates to the left shoulder, may also be down the road, the responsibility of D&H as well.

Since there appears to be nothing further for us to do with respect to this matter other than to distribute the above drafts, I am closing my file. I wish to thank you for allowing this office the opportunity to represent the interests of Berkley Heights and D&H Alternative Risk Solutions in defense of this claim. I will forward my final statement for services under separate cover shortly.

Very truly yours,

CAPEHART & SCATCHARD, P.A.

Lora V. Northen

Certified by the Supreme Court of New Jersey
as a Workers' Compensation Law Attorney

LVN/lk
enclosure
953736

State of New Jersey
Department of Labor and Workforce Development
DIVISION OF WORKERS' COMPENSATION
WC (DO) - 100 (R-6-07)

ORDER

☐ JUDGMENT ☐ DISCONTINUANCE
☑ APPROVING SETTLEMENT ☐ MED & TEMP
☐ DISMISSAL ☐ OTHER

CASE NO'S 2006-12867, 2006-12870, 2006-26168 + 2006-26170
VICINAGE New Brunswick

PETITIONER
NAME Doreen Crincoli
DATE OF BIRTH 12/15/55
ADDRESS 120 Fred Allen Road South Plainfield, NJ 07080

ATTORNEY FOR PETITIONER
TAX IDENTIFICATION NUMBER 52-2111830
NAME Samuel Rothfeld
ADDRESS 576 Central Avenue, Ste. 200 East Orange, NJ 07018
TELEPHONE NUMBER (AREA CODE) 973-674-1000
APPEARING Samuel Rothfeld

VS

RESPONDENT
NAME Berkley Heights / New Providence
ADDRESS 360 Elmwood Ave New Providence NJ
Rhonda Tucker Erdman

ATTORNEY FOR RESPONDENT
NAME Lora Northen / ~~Barbara Nubois~~ Strahan
ADDRESS 72 Eagle Rock Ave E. Hanover NJ.
TELEPHONE NUMBER (AREA CODE) (973) 428-1600
APPEARING Barbara Nubois

INSURANCE CARRIER
NAME Berkeley Heights - Self-Insured ☐ SELF-INSURED ☐ TPA
ADDRESS New Providence - Selective Insurance Co. of America
CARRIER FILE NUMBER [redacted]
DATE OF ACCIDENT OR OCCUPATIONAL EXPOSURE Life 2006
Describe Briefly Repetitive Motion

Weekly Wages 950.00 Rate (s) 691.00 / 257.80

IF RE-OPENED PETITION, INDICATE FOR LAST AWARD: DATE: _____ PERMANENT: $_____ TEMPORARY $_____

THIS MATTER HAVING COME BEFORE THE COURT THIS 11th DAY OF March, 20 2008

☐ ORDER FOR JUDGMENT:
It appearing that the Petitioner suffered a compensable injury on the above mentioned date while in the employ of respondent; it is Ordered and Adjudged that petitioner be awarded compensation benefits, payable as indicated on Page 2.

☑ ORDER APPROVING SETTLEMENT:
The parties having settled the matter and a finding by the Court having been made that the terms of the settlement are fair and just; it is Ordered that this settlement be approved and the petitioner be paid as indicated on Page 2.

☐ ORDER FOR DISMISSAL: ☐ WITH PREJUDICE ☐ WITHOUT PREJUDICE
This matter having come on for hearing upon the respondent's motion for Dismissal which was made and duly served and there being good cause shown, the claim petition herein is hereby dismissed for:
☐ 1. Lack of Prosecution
☐ 2.

☐ ORDER FOR DISCONTINUANCE:
This matter having come on before the Court and the Court having received evidence that this matter should be discontinued and for good cause shown. It is ORDERED AND ADJUDGED that this matter be discontinued for the following reasons:

☐ It is FURTHER ORDERED that the payment indicated on Page 2 be made a part of the Order for Discontinuance for petitioner's disability. (Percentages and members involved.)

☐

WE HEREBY CONSENT TO THE ENTRY AND FORM OF THIS ORDER AND ACKNOWLEDGE RECEIPT OF COPY. (Sign if applicable)

_____
PETITIONER'S ATTORNEY

_____
PETITIONER

_____
RESPONDENT'S ATTORNEY

STENO FEE _____ BY _____

/s/ [illegible] 3/11/08
JUDGE OF COMPENSATION DATE

HON. VIRGINIA DIETRICH
JUDGE'S NAME (PRINT OR TYPE)

THE ORIGINAL OF THIS DOCUMENT, SIGNED BY THE JUDGE OF COMPENSATION, WILL BE MAINTAINED ON FILE IN THE DIVISION OF WORKERS' COMPENSATION, PURSUANT TO N.J.S.A. 34:15-121 et. seq.

RESPONDENT'S ATTORNEY

State of New Jersey
Department of Labor and Workforce Development
Division of Workers' Compensation
PO Box 381
Trenton, New Jersey 08625-0381

ORDER APPROVING SETTLEMENT WITH DISMISSAL
N.J.S.A. 34:15-20

CASE No. 2006-12867, 2006-12870, 2006-26168 + 2006-26170

VICINAGE New Brunswick

PETITIONER

SOCIAL SECURITY NUMBER

NAME Doreen Crincoli

ADDRESS (Including County) Middlesex
120 Fred Allen Drive
South Plainfield, NJ 07080

ATTORNEY FOR PETITIONER

☐ NEW JERSEY REGISTRATION NUMBER ☑ SSN 52-2111830 ☐ FEDERAL EMPLOYER'S IDENTIFICATION NUMBER

NAME Samuel Rothfeld

ADDRESS 576 Central Avenue, Suite 200
East Orange, NJ 07018

TELEPHONE NUMBER (AREA CODE) 973-674-1000

APPEARING Samuel Rothfeld

VS

RESPONDENT

NAME Berkeley Heights / New Providence

ADDRESS (including County) 360 Elkwood Ave. New Providence NJ

ATTORNEY FOR RESPONDENT

NAME Lora Northen / Barbara Nabors

ADDRESS [illegible]

TELEPHONE NUMBER (AREA CODE) (973) 428-1600

APPEARING Barbara Nabors

INSURANCE CARRIER

NAME ☐ SELF-INSURED ☐ TPA
Berkeley Heights - Self-Insured
New Providence - Selective Ins. Co. of America

CARRIER CLAIM FILE NUMBER 20550448

This is a lump sum settlement between the parties in the amount of $ 5000.00
(Five thousand Selective Insurance to pay 50% of 5000. dollars)
pursuant to N.J.S.A. 34:15-20 which has the effect of a dismissal with prejudice, being final as to all rights and benefits of the petitioner and is a complete and absolute surrender and release of all rights arising out of this/these claim petition(s). The payment hereunder shall be recognized as payments of workers' compensation benefits for insurance rating purposes only.

☐ The parties agree that this settlement does not contemplate a complete and absolute surrender and release of any and all rights by the petitioner's dependents as defined by N.J.S.A. 34:15-13 arising out of this/these claim petition(s).

☐ Order For Child Support ☐ Addendum Attached

4000.00

ALLOWANCES

MEDICAL FEES & COSTS	PAID BY	TAX ID NUMBER	TOTAL AMOUNT ALLOWED	PAYABLE BY PETITIONER	PAYABLE BY RESPONDENT
INTERPRETER					
ATTORNEY FEES Samuel Rothfeld		52-2111830	1000	1000	
STENO SERVICE			175		175
MISC					

REASON FOR SEC. 20 Causal relationship as to right hand

We hereby consent to the entry and form of this Order and acknowledge receipt of a copy:

PETITIONER'S ATTORNEY [signature]

PETITIONER X [signature]

RESPONDENT'S ATTORNEY [signature]

After considering all the circumstances, I find this settlement fair and just.

[signature] JUDGE OF COMPENSATION

3/11/08 DATE

HON. VIRGINIA DIETRICH
NAME (print or type)

WC(DO)-370 (R-2-06)

RESPONDENT'S ATTORNEY