

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

PAUL TAYLOR

Applicant
(Moving Party)

- and -

**THE WORKPLACE SAFETY & INSURANCE BOARD – WSIB
and
THE WORKPLACE SAFETY & INSURANCE APPEALS TRIBUNAL - WSIAT**

Respondents
(Responding Party)

RESPONDING RECORD OF THE RESPONDENT, WSIB

Date: March 14, 2018

**HICKS MORLEY HAMILTON
STEWART STORIE LLP**
Barristers & Solicitors
77 King Street West, 39th Floor
Box 371, TD Centre
Toronto, Ontario M5K 1K8

Frank Cesario
Tel: 416-864-7355 Fax: 416-362-9680
LSUC No.: 44516P
E-mail: frank-cesario@hicksmorley.com

Dianne E. Jozefacki
Tel: 416-864-7029 Fax: 416-362-9680
LSUC No.: 63706E
E-mail: dianne-jozefacki@hicksmorley.com

Lawyers for the Respondent, the Workplace
Safety and Insurance Board

TO: **Paul Taylor**



The Applicant

AND TO: **PALIARE ROLAND ROSENBERG ROTHSTEIN LLP**
155 Wellington St West 35th Floor
Toronto, Ontario
M5V 3H1

Michael Fenrick
Tel: 416.646.7481
Fax: 416.646.4301
E-mail: michael.fenrick@paliareroland.com

Lawyers for the Respondent, The Workplace Safety & Insurance
Appeals Tribunal

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PAUL TAYLOR

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- and -

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- and -

THE WORKPLACE SAFETY & INSURANCE APPEALS TRIBUNAL - WSIAT

Respondents

AFFIDAVIT OF JOJIT LABUNTOG
Sworn March 13th, 2018
(Application/Motion Returnable March 20, 2018)

I, Jojit Labuntog, of the City of Toronto, MAKE OATH AND SAY:

1. I am a manager in the Permanent Benefit Services Branch of the Workplace Safety and Insurance Board (WSIB). As such I have knowledge of the matters to which I hereinafter depose except where from the context it appears that I rely on the information of others, all of which I believe to be true.

2. I have read Mr. Taylor's Notice of Motion dated February 26, 2018 in which he alleges in paragraphs 17 and 18 that the WSIB has "retaliated" against him for appealing the WSIB decision relating to over the counter medications. That allegation is not true.

3. The WSIB administers a Drug Benefit Program for injured workers. A specific list of prescribed medications that are covered under the insurance plan are contained in a "drug formulary". Generally and in practice a drug formulary remains in effect for a period of two years after which it expires and is reviewed. A worker's diagnosis determines the scope of the formulary.

4. The Applicant's claim was allowed for musculoskeletal problems. As such, the following prescribed medications were covered during the effective period of the formulary:

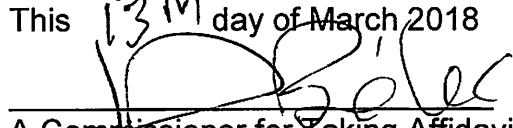
- (a) APO-Esomeprazole;
- (b) Pregabalin;
- (c) Teva-Naproxen
- (d) Flouxetine


5. The Applicant's formulary was set to expire on January 3, 2018. Written notice of such was sent to the Applicant in a letter dated October 4, 2017. The Applicant was invited to submit a medical report should he continue to require the prescribed medication in his formulary beyond January 3, 2018. To date, the Applicant has not

submitted any medical reports as requested. Attached as **Exhibit "A"** to my affidavit is a copy of the letter of October 4, 2017.

6. Should an updated medical report be provided, it will be reviewed to determine continued entitlement to the prescribed medications. A worker has the right to appeal the decision following such review.

7. I swear this Affidavit in response to Mr. Taylor's Application for Judicial Review.

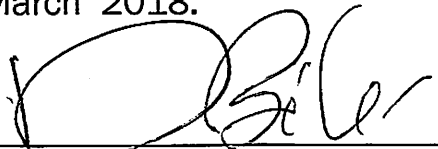
SWORN before me at)
The City of Toronto)
This 13th day of March 2018)
)
A Commissioner for Taking Affidavits)



Jojit Labuntog

This is **Exhibit "A"** mentioned
and referred to in the affidavit of
Jojit Labuntog

Sworn before me this 13th day
of March 2018.



A Commissioner, etc...



Workplace Safety
& Insurance Board
Commission de la sécurité
professionnelle et de l'assurance
contre les accidents du travail

Head Office:
200 Front Street West
Toronto, Ontario
Canada M5V 3J1

Siège social :
200, rue Front Ouest
Toronto, Ontario
Canada M5V 3J1

Telephone / Téléphone :
416-344-1000
1-800-387-0750
TTY / ATS : 1-800-387-0050

Fax / Télécopieur :
416-344-4684
1-888-313-7373

October 4, 2017

PAUL TAYLOR
[REDACTED]

Claim No.: [REDACTED]
Worker Name: PAUL TAYLOR
Date of Injury/Illness: 06/Feb/1997
Injury/Illness: Lower Back

Dear PAUL TAYLOR,

The purpose of this letter is to inform you that information is needed from your treating physician if **non-narcotic** medications are continued to be prescribed beyond January 3, 2018.

If you continue to require medications for your work injury related symptoms, please take this letter to your doctor and have him/her submit a report with the required information below to allow the Nurse Consultant an opportunity to review for further entitlement to payment of the medications under your claim. This will also assist in avoiding disruption/delays in WSIB paying for your medication(s). Your doctor's narrative report must include the following:

- The diagnosis for your work-related injury or illness
- A list of the medication(s) you are currently taking
- Response to medication(s) to date, including pain scores if available
- Current functional abilities
- Treatment goals and anticipated/ongoing benefits from the use of the medication(s)
- What side effects, if any, have been experienced, as well as any action required as a result
- The dosage, strength and quantity of the medication(s) and expected medication changes/dosage increases
- An estimation of how long you will need to use the medication(s)

In your letter dated September 20, 2017, you indicated you were taking over the counter (OTC) medications including Brand name Aleve. The equivalent to this medication, naproxen in generic form is supported for coverage under your WSIB Persistent Pain Drug Formulary. If, for unforeseen circumstances you are unable to take the generic form, please have your doctor provide the WSIB with a clinical rationale as to why you are unable to take the generic form and require Brand Name Aleve.

Information from your doctor about any other medication taken for non-work related conditions would be helpful. Your doctor will be paid a report fee for the information under **fee code M758**.

If you require narcotics for your work injury related symptoms your doctor will be sent a separate request for medical.

Please ensure that your claim number is on your doctor's report. If you have any questions regarding this letter, please contact your Nurse Consultant or your Case Manager.

Your prescription for the above medication(s) or other medications related to your work injury/illness can be electronically billed to WSIB by your pharmacy.

Yours sincerely,



V. Gill
Nurse Consultant
Service Delivery

Tel: 416-344-1000 or 1-800-387-0750

PAUL TAYLOR
APPLICANT

and

WORKPLACE SAFETY & INSURANCE BOARD al.
RESPONDENT

Court File No. 81/18

ONTARIO
SUPERIOR COURT OF JUSTICE

**AFFIDAVIT OF
JOJIT LABUNTOG
Sworn March 13, 2018**

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Dianne E. Jozefacki

Tel: 416-864-7029 Fax: 416-362-9680

LSUC No.: 63706E

E-mail: dianne-jozefacki@hicksmorley.com

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Safety and Insurance Board

PAUL TAYLOR

-and-

**THE WORKPLACE SAFETY & INSURANCE BOARD
AND THE WORKPLACE SAFETY & INSURANCE
APPEALS TRIBUNAL**

Applicant/Moving Party

Respondents/Responding Party

Court File No.: 81/18

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Proceeding commenced at Guelph

**RECORD OF THE RESPONDENT,
WSIB**

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LSUC No.: 44516P

E-mail: frank-cesario@hicksmorley.com

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Tel: 416-864-7029 Fax: 416-362-9680

LSUC No.: 63706E

E-mail: dianne-jozefacki@hicksmorley.com

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