

In the Matter of the Compensation of  
**REBECCA M. MULIRO, Claimant**

WCB Case No. 11-03496, 11-02720

**ORDER ON REMAND**

Ransom Gilbertson Martin et al, Claimant Attorneys  
Dept of Justice - GCD-BAS, Defense Attorneys  
Law Offices of Kathryn R Morton, Defense Attorneys

Reviewing Panel: Members Johnson and Weddell.<sup>1</sup>

This matter is before the Board on remand from the Supreme Court. *DCBS v. Muliro*, 267 Or App 526 (2014), *aff'd* 359 Or 736 (2016). The Supreme Court has affirmed the Court of Appeals decision that reversed our prior order, *Rebecca M. Muliro*, 64 Van Natta 1727 (2012), which had affirmed an Administrative Law Judge's (ALJ's) order that awarded supplemental disability benefits. In reaching our conclusion, we reasoned that, because claimant's employer was aware of her secondary employment, such notice was imputed to the insurer and, as such, satisfied the requirements of ORS 656.210(2)(b)(A). Determining that within 30 days of the insurer's receipt of claimant's initial claim, she did not communicate to her employer that she had "secondary employment" and concluding that the insurer did not otherwise receive actual notice of her secondary employment within the statutorily required 30-day period, the Supreme Court has affirmed the Court of Appeals decision that we committed legal error in affirming the ALJ's award of supplemental disability benefits. Consequently, the case has been remanded for further proceedings.

Consistent with the court's holding, because claimant did not provide notice to either the employer or the insurer that she had secondary employment within 30 days of the insurer's receipt of her initial claim, she is not entitled to a supplemental disability benefit award under ORS 656.210(2)(b)(A).

Accordingly, on remand, in lieu of our September 10, 2012 order, we reverse the ALJ's order dated September 19, 2011, which awarded supplemental disability. The ALJ's "out-of-compensation" attorney fee award is also reversed.

**IT IS SO ORDERED.**

Entered at Salem, Oregon on August 5, 2016

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<sup>1</sup> Member Langer was a member of the initial reviewing panel. Because Member Langer is no longer with the Board, Member Johnson has participated in this review.