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In the Matter of the Compensation of  
**JOHN S. MCKEAN, Claimant**  
WCB Case No. 12-01866, 11-05308  
**ORDER APPROVING SETTLEMENT**  
Moore Jensen, Claimant Attorneys  
MacColl Busch Sato PC, Defense Attorneys

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

On April 25, 2014, we issued an order that affirmed an Administrative Law Judge's (ALJ's) order: (1) upheld the self-insured employer's denial of claimant's new/omitted medical condition claims for L5-S1 facet joint strain and referred myofascial pain; (2) upheld its denial of his new/omitted medical condition claim for multiple combined low back conditions; and (3) upheld the denial of his current combined low back strain condition. Claimant petitioned the court for judicial review of our order. The parties have submitted a proposed "Stipulation and Disputed Claim Settlement" designed to resolve all issues raised or raisable between them. Specifically, the agreement is designed to resolve the parties' dispute pending before the Court of Appeals. We are authorized to consider the parties' agreement. ORS 656.298(9); *Rebecca E. Seelye*, 60 Van Natta 332 (2008).

Pursuant to the settlement, the parties agree that the employer's denials "shall be affirmed." Finally, the agreement provides that all matters "shall be dismissed with prejudice."<sup>2</sup>

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

<sup>2</sup> Consistent with OAR 438-009-0010(4)(b), the agreement provides that claimant retains all rights that may later arise under ORS 656.245 insofar as they may be related to his original accepted claim. However, the parties further acknowledge that, by virtue of the resolution of their dispute regarding claimant's current conditions, his right to treatment for the accepted conditions has been "severely limited and essentially eliminated." The settlement also provides that claimant agrees to hold the carrier harmless for payment of any "additional medical services" for his accepted and denied current conditions/symptoms. In granting our approval, we interpret the aforementioned provision to pertain to claimant's current conditions resolved in the settlement, with the understanding that his statutory rights to future medical services may be difficult to establish based on this settlement.

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By this order, we have approved the parties' agreement, thereby fully and finally resolving this dispute. Accordingly, this matter is dismissed with prejudice.<sup>3</sup>

**IT IS SO ORDERED.**

Entered at Salem, Oregon on May 28, 2015

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<sup>3</sup> This date, we have also approved a Claim Disposition Agreement (CDA) in which claimant fully releases his rights to "nonmedical service-related" benefits under his February 2011 claim.