

**WORKER'S COMPENSATION COMMISSION  
FORMAL HEARING FOR THERESE F.N. SANCHEZ  
WCC – 2015-002421  
4:00 PM  
AUGUST 30, 2018**

**AGENDA**

**I. CALL TO ORDER**

**II. ROLL CALL (WCC BOARD MEMBERS)**

- a. DR. SHIRLEY "SAM" A. MABINI, WCC COMMISSIONER AND GDOL DIRECTOR
- b. MAYOR LOURDES LUJAN, MAYORS COUNCIL
- c. DR. ANNETTE DAVID, GUAM MEDICAL SOCIETY
- d. ATTORNEY CYNTHIA V. ECUBE, WCC BOARD MEMBER
- e. MARGARET E. CRUZ, GOVERNMENT OF GUAM
- f. SANJAY SHARMA, LABOR UNION

**III. INTRODUCTION OF PARTIES**

- a. ATTORNEY JOHN R.B. BELL, LEGAL COUSEL FOR THERESE F.N. SANCHEZ
- b. ATTORNEY JESSE N. NASIS, LEGAL COUNSEL FOR THE DEPARTMENT OF EDUCATION (DOE)

**IV. POINTS OF PROCEDURE (COMMISSIONER MABINI)**

- a. DOCUMENTS
- b. NOTICES
- c. TECHNICAL ISSUES
- d. FORMAL HEARING ENDING TIME

**V. HEARING**

- a. FORMAL HEARING FOR THERESE F.N. SANCHEZ WCC 2015-002421

**VI. WCC BOARD DECISION**

- a. DELIBERATE
- b. VOTE
- c. NO VOTE BUT CONTINUE AT LATER DATE

**VII. ADJOURNMENT**

GUAM DEPARTMENT OF LABOR  
 WORKERS' COMPENSATION COMMISSION (WCC)  
 FORMAL HEARING FOR THERESE F.N. SANCHEZ, WCC-2015-002421  
 Third Floor - DOL Conference Room  
 Thursday, August 30, 2018

FIRST NAME	LAST NAME	COMPANY NAME
DAVID	RIVERA	OAG
Ted	Nelson	Demo -
Lorraine C. Cruz	Cruz	Depo. Resources
Regin	Came	Law office of Atty Be
Emilee	Speer	Law office of Atty Bell
Theresa	Sanchez	DOE
Nicole	Tydingco	GDOE
Thaddeus	Sanchez	
Cathy Tydingco	Tydingco	DOE Sp.Ed.
JACQUETTA TIANIEN SANCHEZ	SANCHEZ	
Jenny	Sanchez	
Jesse	Nash	GDOE
Catherine	Batsin	GDOE
John	Bell	Law office ""
Gajee	Persons	GDOE - SPED.
Pat	Mantamona	GDOE - SPED - GETS
Sanjay	Sharma	WCC
Nacris Atougu	Atougu	DOE/GETS

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 WORKERS' COMPENSATION COMMISSION (WCC)  
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FIRST NAME	LAST NAME	COMPANY NAME
Vietmai Helen	Mafres	DOL
ANNETTE M DE	DAVID	GM S
Margaret Guy		DOE
Cecile Suda	SUDA	DOL
Joannakym Fullerton		WCC
Manny Pardo		WCC
Nina CYNTHIA	Farrell EUROPA	WCC WCC
Veressa	Pezano	
Guy	Messing	DOL
Sam	Mabini	DOL
Nina	Farrell	DOL

**FORMAL HEARING FOR  
THERESE F.N. SANCHEZ  
WCC-2015-002421**

**OPENING STATEMENT**

THE WORKERS' COMPENSATION COMMISSION (WCC) IS NOW IN SESSION TO HEAR THE APPEAL OF **THERESE F.N. SANCHEZ, HEREAFTER, EMPLOYEE**

**INTRODUCTION OF COMMISSIONER AND STAFF:**

MY NAME IS DR. SHIRLEY A. MABINI, WCC COMMISSIONER AND DIRECTOR OF THE GUAM DEPARTMENT OF LABOR

**WCC BOARD MEMBERS PRESENT ARE:**

MAYOR LOURDES LUJAN (MAYORS COUNCIL)  
DR. ANNETTE DAVID (GUAM MEDICAL SOCIETY)  
ATTORNEY CYNTHIA V. ECUBE (MEMBER)  
MARGARET E. CRUZ (GOVERNMENT OF GUAM)  
SANJAY SHARMA (LABOR UNION)

**INTRODUCTION OF PARTIES:**

WILL THE PARTIES PLEASE INTRODUCE THEMSELVES FOR THE RECORD:

ATTORNEY JOHN R.B. BELL FOR EMPLOYEE  
ATTORNEY JESSE N. NASIS LEGAL COUNSEL FOR DOE

**IN THE INTEREST OF BREVITY, I WILL EMPHASIZE THE  
FOLLOWING POINTS OF PROCEDURE:**

1. WCC has provided hard copies of documents for this case to the WCC Board Members, DOE, and Atty. Bell, and that these documents are now entered for the record.
2. Should any other documents be provided today for the WCC, these documents will also be considered for the record.
3. Proper public notices were filed 5 days before and 48 hours before the formal hearing today.
4. Margaret E. Cruz is a WCC Board Member and has been listed as a witness for this case, if there are any objections re this witness, please state for the record.
5. Because Atty. Ecube must leave at 4:45pm, if the WCC Board does not vote today, this hearing will be continued at a later date.
6. Procedure for Hearing:
  - Commissioner requests from each party any technical issues that they would like to raise before the presentation of evidence (10 minutes for each party)
  - Presentation by Legal Counsel for Employee
  - Cross examination of any witnesses by Legal Counsel for GDOE
  - Presentation by the Legal Counsel for GDOE
  - Cross examination of any witnesses by Legal Counsel for Employee
  - Summation by the Legal Counsel for GDOE
  - Summation by the Legal Counsel for Employee
  - Would the WCC Board like to deliberate and vote on the case?
  - If yes, WCC Board will vote and adjourn
  - If no, WCC Board will need to be advised of the future date for continuation of this hearing
  - Adjournment of the hearing
7. Since this hearing is being recorded, I ask that only person speak at a time.

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**GUAM DEPARTMENT OF LABOR  
WORKER'S COMPENSATION COMMISSION (WCC)  
FORMAL HEARING FOR THERESE F.N. SANCHEZ  
WCC-2015-002421**

August 30, 2018

**COPY**

PREPARED BY: **GEORGE B. CASTRO**  
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I GOBIETNON GUAHAN

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**GUAM DEPARTMENT OF LABOR  
 WORKER'S COMPENSATION COMMISSION (WCC)  
 FORMAL HEARING FOR THERESE F.N. SANCHEZ  
 WCC-2015-002421**

Transcription of Guam Department of Labor, Worker's Compensation Commission Formal Hearing, Thursday, August 30, 2018, 3rd Floor, at the hour of 4:15 p.m., Department of Labor Conference Room, GCIC Building, 414 West Soledad Avenue, Hagatna, Guam.

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**COURT REPORTER**

Tel.: (671)688-DEPO \* Fax: (671)472-3094

1           **HAGATNA, GUAM: THURSDAY, AUGUST 30, 2018; 4:15 P.M.**

2  
3           MS. MABINI:     So, this afternoon is the  
4 formal hearing for Therese FN Sanchez, that's  
5 WCC.     Case Number WCC2015002421.     The Worker's  
6 Compensation Commission or WCC is now in  
7 session to hear the appeal of Therese FN  
8 Sanchez who hereinafter we'll refer as the  
9 Employee.

10           I'd like to first start with an  
11 introduction of the Commissioners and our  
12 staff.     I'll start with myself.     My name is Dr.  
13 Shirley E. Mabini or "Sam," as most people know  
14 me, I'm the WCC commissioner and the director  
15 of the Guam Department of Labor.     And with me  
16 are our board members and staff of course.     And  
17 I'd like to go ahead and have them introduce  
18 themselves if they don't mind, say their names.

19           MR. SHARMA:     Sure.     Samjay Sharma,  
20 Labor Rep.

21           MS. ECUBE:     Cynthia Ecube, board  
22 member, attorney.

23           MS. CRUZ:     Margaret Cruz, board member.

24           MS. DAVID:     Annette David, physician  
25 and board member.

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1 MS. MABINI: And then staff.

2 MR. RIVERA: And as counsel to the  
3 commission, David Rivera, attorney.

4 MS. MABINI: And I'd like to also ask  
5 for the introduction of the parties. So, will  
6 the parties please introduce themselves for the  
7 record? Let's start here.

8 MR. BELL: Sure. Good afternoon,  
9 everybody. I am John Bell, attorney for the  
10 charging party, Therese Sanchez.

11 MS. MABINI: Thank you.

12 MR. NASIS: Good afternoon,  
13 Commissioners. My name is Jesse Nasis. I'm  
14 legal counsel for the Guam Department of  
15 Education. And with me is my paralegal Kathy  
16 Nelson.

17 MS. MABINI: Thank you.

18 MR. BELL: And further, sorry.  
19 Regina Sperb is also present. She's my legal  
20 assistant.

21 MS. MABINI: I'm sorry, the name?

22 MS. SPERB: Regina Sperb.

23 MS. MABINI: Thank you. Okay. So,  
24 we'll go ahead and proceed. Now, in the  
25 interest of remedy, I'd like to emphasize some

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1 following points of procedure. First, WCC has  
2 provided hard copies of documents for this case  
3 to our board members, the WCC board members, as  
4 well as those to DOE, and Attorney Bell; and  
5 that these documents are now entered for the  
6 record. And should any other documents be  
7 provided today for the WCC, we ask that these  
8 records will also be considered for the record.

9 Notice that the proper public notices  
10 were filed five days before and 48 hours before  
11 the formal hearing today. And one important  
12 note, according to 22 GCA Section 9141(b), *No*  
13 *members shall act in any such case in which he*  
14 *is interested or when he is employed by any*  
15 *party in interest or related to any party in*  
16 *interest by consanguinity or affinity.* And  
17 that will be Ms. Margaret Cruz sitting to my  
18 left. She's a WCC board member, has been  
19 listed as a witness for this case. So, Ms.  
20 Cruz is the Government of Guam representative;  
21 and Ms. Cruz also works for the Department of  
22 Education, Ms. Cruz must recuse herself.

23 Now, because also another thing is  
24 because Attorney Ecube must leave at 4:45 p.m.,  
25 if the WCC board does not vote today this

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1 hearing will be continued at a later date.

2 So, we're going to go ahead and proceed  
3 for the hearing -- procedures for the hearing.  
4 I'd like to ask that -- well, I ask each party  
5 to, if you have any technical issues that you'd  
6 like to raise before the presentation of  
7 evidence, I'd like to give each party 10  
8 minutes. And we'll go ahead and we'll start  
9 with Mr. Bell.

10 MR. BELL: Sure. I actually have a  
11 couple of housekeeping issues, if I may. At  
12 GCA Chapter 9, and including the board --  
13 statutes. I do read it as saying that the  
14 *Commission shall issue subpoenas, including*  
15 *subpoena duces tecum if a party request it.* I  
16 did request in addition to my witness and  
17 exhibits list, I did request subpoenas be  
18 submitted to five different people that  
19 included duces tecum to Mr. Pablo and Ms.  
20 Fullerton for their resumes, because I felt it  
21 was relevant to understand what their  
22 credentials are for making investigations and  
23 determinations. I did not get any resumes, I  
24 can only assume that either the subpoenas were  
25 not issued or that the -- they were ignored.

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1 And so, I don't know which one it is. But I  
2 did not get those.

3 Normally, I certainly can't tell you  
4 how to conduct the witness list, but normally  
5 the witnesses that are not testifying, are  
6 excluded unless they are a party. I would just  
7 like to know how the Commission's going to  
8 handle that. And then I'm seeing exhibits on  
9 everybody's table. I don't -- I can't -- I  
10 don't have the exhibits with me, but they don't  
11 seem to include our exhibits. So, we submitted  
12 that, we emailed it to everybody, there were no  
13 objections. So, I don't know if the Commission  
14 has that.

15 MS. ECUBE: Yes.

16 MR. BELL: Everyone has that?

17 MS. ECUBE: Yes.

18 MR. BELL: Okay. I wasn't sure.

19 MS. MABINI: I'll go ahead and proceed.

20 MR. BELL: Okay.

21 MS. MABINI: And then I'll come back to  
22 your question.

23 MR. NASIS: Sure. Regarding issues on  
24 behalf of the department, in line with what  
25 Attorney Bell had said for his request for

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1 subpoenas, we also did not receive subpoenas.  
2 So, we did have -- and we are still waiting for  
3 that because we did -- we were informed that  
4 there were issues with at least two of the  
5 witnesses who are included on Attorney Bell's  
6 list.

7 I'm told that with regard to Mr. Bert  
8 Cabrera and Ms. Renee Manglona, those employees  
9 are out on leave for this week. And so, that  
10 was an issue with regard to our attendance.  
11 So, we are still waiting for whether a subpoena  
12 would be issued to them or addressed to them,  
13 so we could sort of address it, that way we  
14 could provide the subpoena to them. As her --  
15 obviously, a requirement that they be here.  
16 But there are issues with those employees not  
17 being here because they are on leave.

18 Separate from that, the employee -- one  
19 of the employees who is here, Ms. Gajee Parsons  
20 does have an issue -- I know the Commission  
21 indicated that there is a timeline of 4:45, but  
22 she did mention that she did have an issue with  
23 picking up her children at 5:30.

24 So, depending on how the hearing went,  
25 there was going to be a request for -- to

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1 accommodate her. But separate from those  
2 issues, those are the issues that we do have.

3 MS. MABINI: All right. Give me a  
4 minute. I need my guidance here. Are there  
5 any other legal issues that you would like to  
6 raise at this time before we proceed?

7 MR. RIVERA: Yeah. And just save to  
8 everybody's time, I think the two witnesses  
9 that you mentioned, I don't think they were --  
10 we didn't request them for today.

11 MR. NASIS: I know they were included  
12 on --

13 MR. RIVERA: So, yeah --

14 MR. NASIS: -- the witness list, so.

15 MR. RIVERA: Yeah, I appreciate that.  
16 That was just, you know, as we know we always  
17 want to hear on the side of putting everybody  
18 that we might call, just so there's no  
19 objections to the witness list.

20 MR. NASIS: Sure.

21 MR. RIVERA: But, yeah. They weren't -  
22 - they weren't needed to be here.

23 MS. MABINI: All right.

24 MR. NASIS: Yeah, with regard to legal  
25 issues on behalf of the department, I guess it

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1 could've been a housekeeping issue as well, or  
2 a legal issue. But really the two issues for  
3 the department would be, one, we need  
4 clarification. Again, as was indicated, the  
5 letter that was provided to all parties and all  
6 Commissioners, the concern with the department,  
7 the superintendent was that the last word from  
8 the Commission on this case was that there was,  
9 you know, the injury was not compensable. And  
10 because of that determination by the  
11 Commission, which was separate from the  
12 department, there was no need over the past --  
13 over three years for the department to do  
14 anything up until it was asked to, you know,  
15 noticed with regard to appearing today.

16 So, I come before the Commissioners  
17 asking for clarification. The department's  
18 superintendent is requesting clarification with  
19 regard to whether the Commission stands by its  
20 notice of contra version which was filed by the  
21 Commission's own employee in September 2015.  
22 Because I think that informs her of how the  
23 departments were to proceed in this matter.

24 If the Commission, you know, confirms  
25 that it does stand by the notice of contra

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1 version that was filed, you know, again more  
2 than three years ago, September 2015, that was  
3 three years ago, then really there's -- you  
4 know, it is the position of the department and  
5 superintendent as, was indicated in the letter,  
6 that is for the Commission to sort of explain  
7 and defend its action in filing that notice of  
8 contra version.

9           But, if for whatever reason, the  
10 Commission is changing its position and no  
11 longer standing by that contra version, that  
12 the department is asking for some sort of  
13 notice and confirmation of that now so that it  
14 can take whatever action it needs in response  
15 to that change of position which -- and if  
16 there is, and to my knowledge, as of right now,  
17 the official last word from the Commission is,  
18 you know, it's not compensable, there's nothing  
19 for DOE to do; but if there's any change in  
20 that, you know, please let us know so that we  
21 can go accordingly.

22           And, if there is that change, we would  
23 request for an opportunity to consider whatever  
24 we need to consider after three years of not  
25 doing anything on this case because we didn't

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1 need to, and make any sort of decisions we need  
2 to make. Because again, there was no need for  
3 the department to act or make any  
4 considerations or any decisions, because as of  
5 September 2015 it was denied and declared to be  
6 non-compensable by the Commission.

7 So, separate from that, there also is a  
8 provision in the law that requires that this  
9 first hearing to raise some sort of objection  
10 as with regard to timeliness. And what we were  
11 noticing in the bound documents that were  
12 provided to all parties was there does appear  
13 to be some sort of timeliness issue which we're  
14 required to raise that this time, at the first  
15 hearing.

16 Specifically in looking at the Form  
17 203, that was filed by the Employee in March  
18 2017, it was March -- it was dated March 7 but  
19 it was submitted by GFT on March 9<sup>th</sup>. The issue  
20 is that's the date that the claim form was  
21 submitted.

22 However, as stated by the employee in  
23 that claim form, the injury was on August 13,  
24 2015, which was about 17 months before. Now,  
25 the statute 22 GCA 9144, there is a one-year

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1 statute that the claim must be filed within one  
2 year; and just based on Employee's claim form,  
3 which was filed on March 9, 2017, it's beyond  
4 that one year timeliness -- deadline.

5 MR. RIVERA: And I apologize, but I  
6 just want to make sure that those cast as oral  
7 arguments. Because we're already getting into  
8 oral arguments.

9 MR. NASIS: Sure. Well, they asked for  
10 legal issues, so I'm just going with the  
11 statute.

12 MR. RIVERA: Sure.

13 MR. NASIS: So, it was a legal issue  
14 that sort of popped up just based on what we  
15 were provided.

16 MR. RIVERA: Right.

17 MR. NASIS: So --

18 MR. RIVERA: We're given maybe 20  
19 minutes to present our case. So, just -- I  
20 don't have a problem with what you're saying.

21 MR. NASIS: Sure.

22 MR. RIVERA: And I appreciate DOE  
23 taking the position, you know --

24 MR. NASIS: Sure. And I'm --

25 MR. RIVERA: We're suppose to have five

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Thaddeus	Sanchez	
Cathy Tydingo	Tydingo	DOE SPED.
JERICA TIANIEN SANCHEZ	SANCHEZ	
Jenny	Sanchez	
Jesse	Nash	GDOE
Catherine	Batsin	GDOE
John	Bell	Law office ""
Gajee	Persons	GDOE - SPED.
Pat	Manbana	GDOE - SPED - GETS
Sanjay	Sharma	WCC
Marcina Atougu	Atougu	DOE/GETS

FIRST NAME	LAST NAME	COMPANY NAME
Vietmai Haem	Mafras	DOL
ANNETTE M B	DAVID	GM S
Margaret Guy		DOE
Cecile Suda	SUDA	DOL
Joannalyn Fullerton		WCC
Manny Pardo		WCC
Nina SYNTIA	Farrell EUROPE	WCC WCC
Veressa	Pezano	
Emily	Mossing	DOL
Sam	Mabini	DOL
Nina	Farrell	DOL