

NUNEZ V. ARMSTRONG GENERAL

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EVER LUIS NUNEZ,
Worker-Appellant,
v.
ARMSTRONG GENERAL CONTRACTOR
and BUILDERS TRUST,
Employer/Insurer-Appellees.

NO. 29,522

COURT OF APPEALS OF NEW MEXICO

January 10, 2011

APPEAL FROM THE WORKERS' COMPENSATION ADMINISTRATION, Gregory
Griego, Workers' Compensation Judge

COUNSEL

Benito Sanchez, P.A., Benito Sanchez, Albuquerque, NM, for Appellant

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JUDGES

JONATHAN B. SUTIN, Judge. WE CONCUR: JAMES J. WECHSLER, Judge,
MICHAEL D. BUSTAMANTE, Judge

AUTHOR: JONATHAN B. SUTIN

MEMORANDUM OPINION

SUTIN, Judge.

The issue is whether after his date of maximum medical improvement (MMI), Worker was entitled to modifiers under NMSA 1978, Section 52-1-26(C) (1990) of the New Mexico Workers' Compensation Act (the Act), NMSA 1978, §§ 52-1-1 to -70 (1929, as

amended through 2007), even though Employer was unable to rehire Worker due to Worker's undocumented and therefore illegal immigration status. The workers' compensation judge (WCJ) denied Worker's claim for modifiers in a grant of summary judgment in favor of Employer. We affirm for the reasons set out in *Gonzalez v. Performance Painting, Inc.*, 2011-NMCA-____, ____ N.M. ____, ____ P.3d ____ (No. 29,629, Jan. 10, 2011), filed contemporaneously with the present memorandum opinion.

IT IS SO ORDERED.

JONATHAN B. SUTIN, Judge

WE CONCUR:

JAMES J. WECHSLER, Judge

MICHAEL D. BUSTAMANTE, Judge