WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

SHEILA MARIE WILLIAMS JONES, *Applicant*

vs.

AC TRANSIT, Permissibly Self-insured; Administered by YORK RISK SERVICES GROUP, INC., *Defendants*

Adjudication Numbers: ADJ7940126, ADJ1631546, ADJ2486552, ADJ2750208, ADJ288311, ADJ9589729
Oakland District Office

OPINION AND DECISION AFTER RECONSIDERATION

We previously granted reconsideration in order to allow us time to further study the factual and legal issues in this case. We now issue our Opinion and Decision After Reconsideration.

Defendant seeks reconsideration of the Opinion and Decision After Reconsideration we issued on May 20, 2020, wherein we rescinded the workers' compensation administrative law judge's (WCJ) finding that defendant did not violate Labor Code[1] section 132a by terminating applicant's employment and substituted findings that defendant's termination of applicant was in violation of section 132a and deferred the issues of the amount of penalty to which applicant is entitled and whether applicant is entitled to compensation for loss of wages and benefits and reinstatement.

Defendant contends that applicant failed to establish her prima facie section 132a claim and, in the alternative, that it presented evidence sufficient to establish its business necessity defense.

We received an Answer from applicant.

Defendant filed a request for leave to file a supplemental pleading. We approve the request, and accept defendant's Supplemental Petition. (Cal. Code Regs., tit. 8, former § 10848, now § 10964 (eff. Jan. 1, 2020).)

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[1] Unless otherwise stated, all further statutory references are to the Labor Code.

We have considered the allegations of the Petition, the Answer, and the Supplemental Petition. Based on our review of the record, and for the reasons stated below and in our Opinion and Decision After Reconsideration issued on May 20, 2020, which we adopt and incorporate herein, we will affirm our Opinion and Decision After Reconsideration issued on May 20, 2020.

FACTUAL BACKGROUND

The WCJ admitted defendant's notices to applicant regarding her medical leave into evidence. (Minutes of Hearing and Summary of Evidence, June 11, 2018, p. 3:16-19.) These include notices to applicant dated July 1, 2010, August 6, 2010, and January 31, 2011, which provide respectively as follows:

> July 1, 2010
>
> . . .
>
> RE: PROVISIONAL FAMILY MEDICAL LEAVE (FML) APPROVAL: REPORTED AS AN INDUSTRIAL INJURY
>
> Dear Ms. Jones:
>
> The Leave Management Department has received information that you have been absent from work for more than three consecutive days due to an injury reported as work-related. However, we have not received sufficient information to determine that this absence, beginning June 24, 2010, qualifies as a protected Family Medical Leave (FML).
>
> **You are <u>provisionally</u> approved for FML effective June 24, 2010.** . . .
>
> (Ex. 3. Leave Notices, July 1, 2010, p. 11.)
>
> August 6, 2010
>
> . . .
>
> RE: "EXTENDED" FORMAL FAMILY/MEDICAL LEAVE (FML) APPROVAL: SELF
>
> Dear Ms. Jones:
>
> The Leave Management Department received additional information regarding your continuous Family Medical Leave (FML) due to your own serious health condition.

> **You are approved for FML during the continuous period June 23, 2010 through August 14, 2010.** This approval applies only to absences from work related to your own serious health condition as stipulated in the medical documentation completed by your health care provider. . . .
>
> (Ex. 3, Leave Notices, August 6, 2010, p. 6.)
>
> January 31, 2011
>
> . . .
>
> RE: FORMAL FAMILY MEDICAL LEAVE (FML) APPROVAL: INDUSTRIAL INJURY CLAIM
>
> Dear Ms. Jones:
>
> The Leave Management Department received information indicating that you have been absent from work due to an injury/illness reported as work related. We have received sufficient medical documentation to designate your absence under the Family Medical Leave Act (FMLA) due to your serious health condition.
>
> **You are approved for FML during the continuous period starting August 15, 2010 through November 6, 2010.** . . .
>
> (Ex. 3, Leave Notices, January 31, 2011, p. 2.)

The WCJ also admitted an October 17, 2014 letter from defendant's labor relations administrator/hearing officer, Angela Dangerfield, to applicant's attorney, into evidence. (Minutes of Hearing and Summary of Evidence, June 11, 2018, p. 3:23-26.) In it, Ms. Dangerfield writes:

> I reviewed the District records for the period beginning January 2008 through December 2013, for employees terminated for "Failure to Call Every 30 Days".
>
> 16 employees in total were terminated for this infraction during the period identified above. That total is broken down below:
>
> 5 (including Ms. Jones*) had open Industrial Injury claims (filed in years prior to their termination year) that are still open.
>
> *During the period leading up to Ms. Jones termination she was out on Family Medical Leave and once that was exhausted her time off was captured as Medical Leave of Absence. . . .
>
> (Ex. G, Dangerfield Letter, October 17, 2014.)

The WCJ also admitted medical reports of Dr. Brendan Morley, M.D., dated August 24, 2010 and February 10, 2011, and the deposition transcript of applicant's supervisor, Aisha Palmer, into evidence. (Minutes of Hearing and Summary of Evidence, June 11, 2018, pp. 3:16-26; Ex. F, Brendan Morley, M.D. Reports, August 24, 2010, p. 3; Ex. A, Subpoenaed Records of Brendan Morley, M.D., February 10, 2011, p. 36; Ex. 7, Deposition Transcript of Aisha Palmer Islam, November 22, 2013.)

In the August 24, 2010 report, prepared on the letterhead of the "Pain & Rehabilitative/Consultants Medical Group" and stamped "RECEIVED/SEP 14 2010," Dr. Morley writes:

> **WORK RESTRICTIONS**
>
> Date: 08/24/2010
> Patient Name: Ms. Williams Jones, Sheila
> . . .
> Date of Injury: 01/03/2000
> Claim Number: 809631
>
> To whom it may concern:
> This is to certify that the patient is under my professional care and has the following work restrictions:
>
> As Per PTP Dr. Warbritton.
> **Other:**
> Due recent pain flare up the patient is restricted to the following:
>
> She is restricted to sitting for no more than 15 minutes at a time.
> She is restricted to standing/walking for no more than 60 minutes at a time.
> Please note that if these restrictions cannot be accommodated, the patient will be on Total Temporary Disability.
>
> . . .
>
> (Ex. F, Brendan Morley M.D. Reports, August 24, 2010, p. 3.)

In his February 10, 2011 report, Dr. Morley sets forth the following diagnosis:

> 722.52 Degeneration lumbar lmbsac di
>
> 722.10 Lumbar Disc Displacement Without Myelopathy
>
> 724.02 Stenosis spinal lumbar
>
> 722.0 Cervical disc displacmnt
>
> 716.88 Arthropathy not elsewhere classified
>
> 724.8 Symptoms back not elsewhere classified
>
> (Ex. A, Subpoenaed Records of Brendan Morley, M.D., February 10, 2011, p. 37.)

The transcript of Ms. Palmer's deposition reflects the following testimony:

> Q: . . . And this and a work restriction dated August 24, 2010. And it also has a received stamp on it, correct?
>
> A: Yes.
>
> Q. Okay. And if you read this note, it says – it says at the end of the restrictions it says, "Please note that if these restrictions cannot be accommodated, the patient will be on total temporary disability." Do you see that?
>
> A. Um-hmm.
>
> Q. And when—did you read this? Does this document seem – is this something you've read before?
>
> A. All of these documents when I received them, for your information, would be scanned over to the modified duty benefits department.
>
> Q. Okay.
>
> A. And they have a department over there that deals with the type of, you know, the type of leave you can be on, like family leave or FML or all that type of leave. So that would be -- all this information would be scanned over to this department. And that's what I was told, to send anything that's, you know, related to Sheila's leave request like something like this, it was scanned over to that department.
>
> (Ex. 7, Deposition Transcript of Aisha Palmer Islam, November 22, 2013, pp. 25:6-26:4.)
>
> Q. So Pain and Rehabilitation Consultants, are they an industrial injury?

A. Yeah, they're pretty much industrial injury workers' comp because I hurt my back on the job. And I went to them.

Q. So when you saw these medical notes from Pain and Rehabilitation Consultants Medical Group, did that clue you in that she's on industrial injury because it provided for industrial injury?

A. It clued me in she's going to see the doctors for her work, yes. Sincerely, yes, I understand that. But what you don't understand is I don't have any validation that she's on workers' comp.

. . .

Q. . . . It's your understanding that Pain and Rehabilitation Consultants Medical Group is a provider to AC Transit workers who are injured at work, correct?

A. Yes. I've gone to them myself. Yes, I know them, um-hmm.

(*Id.*, pp. 70:6-71:2.)

DISCUSSION

In our Opinion and Decision After Reconsideration, we discussed the elements for determining section 132a liability under *Department of Rehabilitation v. Workers' Comp. Appeals Bd.* (*Lauher*) (2003) 30 Cal.4th 128 [68 Cal.Comp.Cases 831].

> [W]e view the Court's phrase "singled out for disadvantageous treatment" to be an *application* of the broader standard adopted by *Lauher*—that, in addition to showing that he or she suffered an industrial injury and that he or she suffered some adverse consequences as a result of some action or inaction by the employer that was triggered by the industrial injury, an applicant "must also show that he or she had a legal right to receive or retain the deprived benefit or status, and the employer had a corresponding legal duty to provide or refrain from taking away that benefit or status." (*Lauher*, *supra* at p. 1300.) Stated another way, an employee must show they were subject to "disadvantages not visited on other employees because they were injured. . . ." (*Id*.) [fn.]
>
> (Opinion and Decision After Reconsideration, May 20, 2020, pp. 9-10, (footnote citing *St. John Knits v. Workers' Comp. Appeals Bd.*, 2019 Cal. Wrk. Comp. LEXIS 75).)

When we applied this framework to the record of this case, we found the evidence sufficient to establish two separate, independent section 132a prima facie liability theories; namely, that defendant (1) singled applicant out for disadvantageous treatment by terminating her employment

because she made a workers' compensation claim; and (2) deviated from its usual procedures for responding to injury claims by terminating applicant for violating injury-status reporting procedures applicable to non-industrially injured employees and failing to complete its usual inquiry regarding whether she had a workers' compensation claim. We now address defendant's contentions in the order that they pertain to these prima facie liability theories.

Defendant initially contends that the evidence in the record fails to establish that it terminated applicant because she made a workers' compensation claim. More specifically, defendant argues that the evidence shows that (1) it did not accept her claim; (2) her claim was not "active"; (3) it did not know that her claim involved a "recent" industrial injury when it terminated her; and (4) it subjected her to injury-status reporting and disciplinary protocols slated for non-industrially injured employees out of mistake—and thus that it could not have been subjectively aware of her claim and singled her out for disadvantageous treatment because of it. (Petition, pp. 2:3-4, 13:3-16:7.)

Before we address the merits of these arguments, we note that they are belied by evidence discussed in our Opinion and Decision After Reconsideration showing not only that defendant was subjectively aware of applicant's claim, but that it explicitly relied upon the claim as grounds for her termination. (Opinion and Decision After Reconsideration, May 20, 2020, p. 10:10.) Specifically, Angela Dangerfield, defendant's labor administrator who served as the hearing officer on applicant's termination hearing, writes that defendant's supervisor sought applicant's termination by submitting documentation showing that applicant's July 16, 2010 injury claim was invalid based upon a prior settlement agreement. (Ex. 9, Determination of Hearing Officer, April 22, 2011, pp-1-2.) In addition, Ms. Dangerfield cites the prior settlement agreement as grounds for her decision upholding applicant's termination. (*Id*.) Given that defendant held a termination hearing and terminated applicant based upon allegations that (1) applicant's claim was invalid, (2) applicant was therefore obligated to report her injury status by telephone every thirty days as required of non-industrially (but not industrially) injured employees, and (3) applicant was terminated for failing to report her injury status in the manner expected of non-industrially injured employees, we are persuaded that defendant knew of applicant's claim and acted adversely against her as a result.

Nevertheless, defendant argues that evidence suggesting that it did not accept her claim, treat her claim as "active," or know the claim alleged a "recent" industrial injury shows that it was

unaware of her claim and thus could not have discriminated against her. These contentions cite no evidence suggesting that defendant lacked legal or actual notice of applicant's claim, but argue that because the claim alleged an injury reoccurrence it failed to provide sufficient information for defendant to accept it.

However, section 132a does not require applicant to file a workers' compensation claim that states her claim with specificity, or to file a workers' compensation claim at all, in order to recover against defendant for alleged discriminatory conduct. Rather, applicant must prove that defendant "in any manner" discriminated against her because she "made known . . . her intention to file for compensation." (§ 132a.) In this regard, applicant testified that in July 2010 she filed a claim for an injury occurring on May 26, 2010, that she had a coworker deliver copies of her physician's medical reports to defendant, that she understood that her physician had separately sent copies to defendant, and that when defendant informed her in January 2011 that she was still on "sick book," or non-industrial leave, she responded that this was incorrect. (Minutes of Hearing and Summary of Evidence, June 11, 2018, pp. 6:4-6, 7:5-45, 8:17; Report, p. 1.)

Further, as stated in the Report, the WCJ found that applicant claimed the May 26, 2010 injury in one of two work-injury forms she filled out on July 16, 2010 and submitted her physician's reports regarding her injury status without calling her supervisor. (Report, p. 2.)

Further, defendant's July 1, 2010 and January 31, 2011 notices to applicant regarding her medical leave explicitly state that the reason applicant sought leave was a reported industrial injury. (Ex. 3, Leave Notices, pp. 2, 11.)

Further, applicant's supervisor, Aisha Palmer, testified in deposition that she was in receipt of Dr. Morley's August 24, 2010 report, which references applicant's worker's compensation claim and the prospective need for applicant to receive temporary disability benefits depending upon whether or not defendant could accommodate her work restrictions. (Ex. 7, Deposition Transcript of Aisha Palmer Islam, November 22, 2013, pp. 25:6-26:4; 70:6-71:2; see also Ex. F, Brendan Morley, M.D. Reports, August 24, 2010, p. 3.) She also testified that she knew from her own experience that Dr. Morley's practice, known as Pain and Rehabilitative Consultants, served as physicians for defendant's industrially-injured employees, putting her in a position to be personally aware that applicant was on leave for a claimed industrial injury. (*Id*., pp. 70:6-71:2.)

Further, and contrary to defendant's supplemental allegation that "there was no notice" that applicant's May 26, 2010 injury involved injury to body parts other than applicant's back, we have

previously explained that the testimony of defendant's labor relations administrator/hearing officer, Ms. Dangerfield, suggests that defendant was in receipt of applicant's physician's February 10, 2011 report when it leveled its charges against applicant on March 28, 2011—and that report explicitly finds injury to applicant's neck in the form of cervical disk displacement. (Supplemental Petition, p. 2:12-13; Opinion and Decision After Reconsideration, May 20, 2020, p. 6:14-18; Ex. A, Subpoenaed Records of Brendan Morley, M.D., February 10, 2011, p. 37.)

Thus, the evidence demonstrates that applicant presented defendant with a claim alleging industrial injury, submitted injury-status reports from her physician as defendant required of its industrially-injured employees, and objected to her continued placement on non-industrial leave. The evidence further shows that defendant acknowledged that the reason applicant sought leave beginning in June 2010 was a reported industrial injury, that applicant's direct supervisor, Ms. Palmer, knew or should have known that applicant was on leave for a claimed industrial injury, and that defendant was on notice that applicant's claim included injury to her neck before it terminated her for failing to comply with injury-status reporting rules applicable to non-industrially injured employees. Accordingly, we conclude that applicant made known to defendant her intent to seek workers' compensation benefits; and, in consequence, defendant's arguments that it could not have discriminated against applicant because it lacked sufficient information regarding her claim are without merit.

We next address defendant's contention that it designated applicant as a non-industrially injured employee subject to injury-status reporting and disciplinary protocols requiring her termination for failing to report her injury status telephonically out of mistake.[2] Here defendant posits that so long as it terminated applicant based upon a mistake, it could not have acted with intent to discriminate and cannot be liable under section 132a. However, defendant cites no authority, and we are aware of none, requiring applicant to prove that defendant subjectively intended to discriminate against her when it terminated her employment. To the contrary, as we previously explained, the Supreme Court has opined that section 132a requires no such proof.

[2] Defendant's labor relations administrator/hearing officer, Angela Dangerfield, testified that defendant requires all injured employees to call-in every thirty days to report their injury status. She further testified, however, that employees on industrial leave may call-in to the leave department instead of their supervisor and certain employees, including dispatchers such as applicant, may submit medical documentation instead of calling-in so long as the documentation is received by the appropriate department. (See Minutes of Hearing and Summary of Evidence, August 27, 2018, p. 10:7-12.)

(Opinion and Decision After Reconsideration, May 20, 2020, p. 12:23 (citing *Lauher*, *supra* at p. 1301, fn. 8).)

Moreover, we disagree with defendant that *Sandoval v. UPS*, 2010 Cal. Wrk. Comp. P.D. LEXIS 320[3] suggests that applicant must establish defendant's discriminatory intent in order to prevail on her claim. The panel in that case did not conclude that applicant failed to prove defendant's discriminatory intent, but rather that evidence of applicant's misconduct demonstrated that he would have been terminated regardless of whether or not he made a workers' compensation claim and thus failed to establish that he was terminated because of his claim.[4] Accordingly, defendant's argument that it is not liable because it mistakenly subjected applicant to injury-status reporting and disciplinary protocols applicable to non-industrially injured employees lacks merit.

Next, we address defendant's contentions that the evidence establishes that it could not have deviated from its usual procedures when it responded to applicant's injury claim. Specifically, defendant argues that applicant was terminated not only because she failed to comply with injury-status reporting procedures applicable to non-industrially injured employees, but also because she failed to comply with reporting procedures applicable to industrially-injured employees in that the dates of medical leave authorized by her physician's reports contained "gaps." (Petition, p. 7:18-22.) However, defendant cites no evidence, and we are aware of none, that defendant leveled charges and held a termination hearing against applicant for failing to submit physician's reports in compliance with injury-status reporting protocols applicable to industrially-injured employees. Rather, as we have explained, after accepting applicant's physician's reports for an eight-month period, defendant charged applicant and held a hearing on her alleged failure to report to her supervisor telephonically every thirty days as required of non-industrially injured employees. (Opinion and Decision After Reconsideration, May 20, 2020, p. 11:7-20.) Following the hearing, defendant terminated applicant on the express ground that she had failed to report her

[3] WCAB panel decisions are citeable authority, particularly on issues concerning construction of statutory language. (See *Griffith v. WCAB* (1989) 209 Cal.App.3d 1260, 1264, fn. 2 [54 Cal.Comp.Cases 145].) However, WCAB panel decisions are not binding precedent, as are en banc decisions, on all other Appeals Board panels and workers' compensation judges. (See *Gee v. Workers' Comp. Appeals Bd*. (2002) 96 Cal.App.4th 1418, 1425 fn. 6 [67 Cal.Comp.Cases 236].)

[4] The *Sandoval* panel stated: "The evidence is this case suggests that, if applicant had sustained the injury found herein and performed his [modified work] for the period authorized without engaging in any other suspicious behavior, his employer would not have taken any detrimental action." (*Sandoval, supra,* at p. 10.)

injury status telephonically every thirty days. (*Id*., p. 3:5-6; see also Ex. G, Dangerfield Letter, October 17, 2014 (stating that applicant was "terminated for 'Failure to Call Every 30 Days.'").) Thus, notwithstanding that defendant's labor relations administrator/hearing officer asserted that alleged gaps in dates of leave authorized by applicant's physician's reports provides a separate justification for her termination decision, the evidence that defendant charged applicant, held a hearing, and terminated her because she allegedly failed to report her injury status telephonically as required of a non-industrially injured employee demonstrates that defendant deviated from its usual procedures in responding to applicant's injury claim.

Moreover, we are unable to discern support in the record for the argument that defendant could have terminated applicant for alleged gaps in her physician's reports had it initially sought to do so. Specifically, defendant argues that it could have terminated applicant because she "never bothered to provide [defendant] with [a] work status report" during a ninety-day period beginning in January 2011. (Petition, p. 18:19-20.) However, as we have explained, defendant's labor relations administrator/hearing officer's testimony suggests that defendant was in receipt of applicant's physician's report dated February 10, 2011 when it leveled its charges against applicant on March 28, 2011. (Opinion and Decision After Reconsideration, May 20, 2020, p. 6:14-18.) Further, the alleged gaps for the periods of July 14, 2010 through August 10, 2010, and September 24, 2010 through November 15, 2010, include dates for which defendant had explicitly granted applicant medical leave based upon the information she had provided. (Petition, p. 8:10-12; Ex. 3, Leave Notices, pp. 2, 6, 11.)

As an alternative to its arguments that it could have terminated applicant for failing to comply with its industrial-injury reporting requirements, defendant argues that it could have terminated applicant because she did not report her injury status telephonically during the period of May 26, 2010 until July 16, 2010, when it could not have known of her industrial injury claim. (Petition, p. 7:3-4.) But defendant's labor relations administrator/hearing officer concluded that applicant could not be terminated for failing to call-in during this period because her absences were excused. (See Report, p. 3.) Further, defendant explicitly granted applicant medical leave during this period based upon her reported industrial injury. (Ex. 3, Leave Notices, pp. 6, 11.)

Having evaluated defendant's various arguments that it could not have deviated from its usual procedures for responding to applicant's injury claim, we note that the Petition does not proffer evidence or argument contrary to our conclusion that defendant deviated from its usual

procedures by terminating applicant without completing its usual inquiry at the termination hearing as to whether or not she had a workers' compensation claim. (Opinion and Decision After Reconsideration, May 20, 2020, pp. 11:21-12:7.)

Accordingly, we conclude that defendant's arguments that the evidence establishes that it could not have deviated from its usual procedures when it responded to applicant's injury claim are without merit.

Next, we address defendant's argument that the WCJ's assessment of applicant's credibility, combined with inconsistencies in applicant's testimony during proceedings occurring from 2011 through 2016 regarding her change of her address and her knowledge of defendant's legal position regarding her July 16, 2010 claim, demonstrate that applicant failed to prove her section 132a claim.

Here we accord the WCJ's assessment of witness credibility great weight because the WCJ observed the trial testimony. However, in determining the issues raised by applicant's claim, we have relied not only upon the contents of her testimony, but also upon that of her supervisor, Ms. Palmer, defendant's labor relations administrator/hearing officer, Ms. Dangerfield, and extensive documentary evidence concerning applicant's claim and defendant's responses thereto. (*Garza v. Workmen's Comp. App. Bd.* (1970) 3 Cal.3d 312, 317–319 [35 Cal.Comp.Cases 500].) Thus, based upon the entire record before us, we are unpersuaded that inconsistencies in applicant's testimony in prior proceedings regarding her change of address and personal knowledge of defendant's legal position are of sufficient weight to alter our evaluation of the matters at issue herein. Accordingly, we are unable to discern merit to defendant's contention that applicant failed to prove her section 132a claim based upon the WCJ's assessment of her credibility and evidence of inconsistencies in her testimony in prior proceedings.

Next, we turn to defendant's contention that it had legitimate business reasons for terminating applicant because she failed to (1) report her injury status telephonically; (2) provide physician's reports providing medical authorization for all of her leave; and (3) overturn her termination through arbitration proceedings.

Regarding the first two of these arguments, we have previously explained that defendant's stated reason for terminating applicant, i.e., that she had "failed to contact [defendant] every thirty (30) days as required . . . [and that her workers' compensation claim had settled] on March 3, 2008," was unreasonable because it explicitly relied on the alleged invalidity of her claim and

because it directly resulted from deviations from its usual procedures for responding to injury claims. (Opinion and Decision After Reconsideration, May 20, 2020, p. 13:4-13.) In addition, based upon the absence of evidence that defendant leveled charges against applicant for failing to provide adequate physician's reports and the testimonial and documentary evidence suggesting that such charges could not have been sustained had it chosen to do so as explained above, we are unpersuaded that the record before us is sufficient to establish defendant's business necessity defense.

Defendant also argues that applicant's failure to overturn her termination by way of an arbitration proceeding constitutes a valid business reason for her termination because it is bound by the outcome of the proceeding. We are unpersuaded. Section 5300 provides that the WCAB is the exclusive forum for proceedings concerning section 132a rights. (*City of Moorpark v. Superior Court* (1998) 18 Cal.4th 1143 [63 Cal.Comp.Cases 944] (*Moorpark*).) Consequently, the outcome of the parties' arbitration proceeding has no bearing on the issue of whether the evidence before us establishes that defendant violated section 132a. Accordingly, we are unable to discern merit to defendant's arguments that it terminated applicant for legitimate business reasons.

Accordingly, we will affirm the Opinion and Decision After Reconsideration issued on May 20, 2020.

For the foregoing reasons,

IT IS ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the Opinion and Decision After Reconsideration issued on May 20, 2020 by the Workers' Compensation Appeals Board is **AFFIRMED.**

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ MARGUERITE SWEENEY, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

February 16, 2021

SERVICE MADE ON THE ABOVE DATE ON THE PERSONS LISTED BELOW AT THEIR ADDRESSES SHOWN ON THE CURRENT OFFICIAL ADDRESS RECORD.

SHEILA MARIE WILLIAMS JONES
BOXER & GERSON
WITKOP LAW

SRO/ara

I certify that I affixed the official seal of the Workers' Compensation Appeals Board to this original decision on this date. *abs*