

**WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA**

JOANNA ELLIOTT, *Applicant*

vs.

**PEPPERDINE UNIVERSITY;
ADMINISTERED BY GALLAGHER BASSETT SERVICES, INC., *Defendants***

**Adjudication Number: ADJ12304192
Marina del Rey District Office**

**OPINION AND ORDER
GRANTING PETITION FOR
RECONSIDERATION
AND DECISION AFTER
RECONSIDERATION**

We have considered the allegations of the Petition for Reconsideration and the contents of the report of the workers' compensation administrative law judge (WCJ) with respect thereto. Based on our review of the record, and for the reasons stated below, we will grant reconsideration, and amend the WCJ's decision to defer the issue of injury arising out of and occurring in the course of employment (AOE/COE) in the form of lung disease and injury to the nose and throat. As to the issues raised in applicant's petition, we affirm the WCJ's Orders based upon the WCJ's analysis of the merits of the petitioner's arguments in the WCJ's report.

This matter proceeded to trial on October 28, 2022. At that time, the parties stipulated that applicant sustained injury arising out of and in the course of employment (AOE/COE) in the form of asthma and to the upper digestive system and claims to have sustained injury AOE/COE in the form of lung disease, and to the nose and throat. (Minutes of Hearing and Summary of Evidence (MOH/SOE), 10/28/23, at p. 2:8-10.) The issue of injury AOE/COE in the form of lung disease and to the nose and throat was not framed for trial nor was the WCJ's finding of injury to those body parts based on substantial medical evidence in the record. Therefore, we will amend Findings of Fact 1 to reflect the parties' stipulation and we will defer the issue of injury AOE/COE in the form of lung disease and to the nose and throat.

For the foregoing reasons,

IT IS ORDERED that reconsideration of the January 4, 2023, Findings and Order is **GRANTED**.

IT IS FURTHER ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the January 4, 2023 Findings and Order is **AFFIRMED**, **EXCEPT** that it is **AMENDED** as follows:

FINDINGS OF FACT

1. JOANNA ELLIOTT, while employed from February 2, 1997 through May 30, 2019 as a director - real estate, Occupational Group No. 110, at Pepperdine University, Malibu, California, sustained injury arising out of and occurring in the course of employment (AOE/COE) in the form of asthma and to the upper digestive system and claims to have sustained injury AOE/COE in the form of lung disease, and to the nose and throat. The issue of injury AOE/COE in the form of lung disease, and to the nose and throat is deferred.

* * *

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

I CONCUR,

/s/ PATRICIA A. GARCIA, DEPUTY COMMISSIONER

/s/ KATHERINE A. ZALEWSKI, CHAIR



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

March 27, 2023

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

**JOANNA ELLIOTT
BERKOWITZ & COHEN
GURVITZ & MARLOWE LLP**

PAG/mc

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