

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

BRYAN FUENTEZ, *Applicant*

vs.

**CITY OF WATSONVILLE, Permissibly Self-Insured;
administered by LWP CLAIMS SOLUTIONS, INC., *Defendants***

**Adjudication Number: ADJ12416285
Salinas District Office**

**OPINION AND ORDER
DENYING PETITION FOR
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 in the WCJ's report, which we adopt and incorporate, we will deny reconsideration.

For the foregoing reasons,

IT IS ORDERED that the Petition for Reconsideration is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

MARGUERITE SWEENEY, COMMISSIONER
CONCURRING NOT SIGNING



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

AUGUST 1, 2022

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

**BRYAN FUENTEZ
SPRENKLE, GEORGARIOU & DILLES
MACINTYRE & WHITE**

JMR/pc

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

**REPORT AND RECOMMENDATION ON
PETITION FOR RECONSIDERATION**

I

INTRODUCTION

Applicant has filed a timely, verified Petition for Reconsideration from the 6/2/22 Findings & Award, raising the usual statutory grounds. He claims error in the finding of the Labor Code Section 5412 date of injury. The Petition is without merit and should be denied.

II

STATEMENT OF MATERIAL FACTS

Applicant, Bryan Christopher Fuentez, born 10/20/70, while employed during the period 11/29/99 through 2/28/19 as a police officer, Occupational Group 490, at Watsonville, California, by the City of Watsonville, permissibly self-insured, sustained cumulative trauma to his right hand and wrist during a period ending 5/6/19.

On 5/7/19, Applicant reported injury to his employer caused by cumulative trauma from his work activities, listing “5/6/19” as the date of injury (Exhibit D-1 and his testimony at trial (MOH/SOE 4/28/22)). There is no evidence that a specific injury to Applicant’s right wrist occurred, and Applicant’s references in D-1 and in his testimony to his general work duties support the conclusion that he was claiming cumulative trauma ending on that date. His disability began with surgery and lost time from work in March 2019, for which he received 4850 payments from his employer.

III

DISCUSSION

Labor Code Section 5412 provides that the date of injury in cumulative trauma cases is the date when first disability coincides with first knowledge that the disability was caused by work. As noted above, the first date of disability was in March 2019, when Applicant underwent surgery and was put on 4850 benefits. The evidence listed above shows that Applicant knew his disability was industrial, when he gave his employer his “Incident/Injury Report” on 5/7/19, listing 5/6/19 as the date of industrial injury; and his careful listing of his general work duties, as well as his testimony at trial, leave no doubt that he understood his industrial injury was caused by cumulative trauma.

IV

RECOMMENDATION

I recommend that the Petition for Reconsideration be Denied.

Respectfully submitted,
MICHAEL H. YOUNG
Workers' Compensation Administrative Law Judge