WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

ANDREA CHERI HECHT, *Applicant*

vs.

SAN BERNARDINO SUPERIOR COURT, permissibly self-insured, administered by ACCLAMATION INSURANCE MANAGEMENT SERVICES, *Defendants*

Adjudication Numbers: ADJ11764709, ADJ11764682
San Bernardino District Office

OPINION AND DECISION AFTER RECONSIDERATION

We previously granted defendant's Petition for Reconsideration (Petition) to further study the factual and legal issues in this case. This is our Opinion and Decision After Reconsideration.

Defendant seeks reconsideration of the Joint Findings and Orders (F&O), issued by the workers' compensation administrative law judge (WCJ) on September 8, 2021, wherein the WCJ found in pertinent part that in case number ADJ11764709 applicant sustained a psychiatric injury arising out of and in the course of employment (AOE/COE) and that the record needs further development to determine if applicant sustained injury to other body parts; and that in case number ADJ11764682 the record needs further development to determine whether applicant sustained injury AOE/COE to her head, psyche, nervous system, and body systems, and in the form of stress; the WCJ ordered that the reports and deposition transcripts of psychology qualified medical examiner (QME) Jess Ghannam, Ph.D. be stricken from the record as not being substantial medical evidence and that they not be transmitted to any other evaluator.

Defendant contends that the reports from treating physicians Shannon Silverstein, Psy.D., and L. Scott Frazier, Ph.D., are not substantial evidence on the issue of injury AOE/COE, and that applicant's previous request for an additional medical-legal evaluation had been denied so there is no legal basis for having applicant evaluated by an internal medicine AME/IME.

We received a Report and Recommendation on Petition for Reconsideration (Report) from the WCJ recommending the Petition be denied. We received an Answer from applicant.

We have considered the allegations in the Petition and the Answer, and the contents of the Report. Based on our review of the record, for the reasons stated by the WCJ in the portion of the Opinion on Decision attached hereto, which we adopt and incorporate (Opinion on Decision, September 8, 2021, pp.6-7.), and for the reasons discussed below, we will rescind the F&O and substitute a new F&O, which defers the issue of whether applicant sustained a psychiatric injury and to other body parts in case number ADJ11764709 (Finding of Fact 1) and the issue of whether applicant sustained injury in case number ADJ11764709 (Finding of Fact 2); finds that based on the record, defendant did not meet its burden under Labor Code section 3208.3(h) to show that compensation was barred; defers all other issues; and orders further development of the record per the orders of the WCJ. We will return the matter to the WCJ for further proceedings consistent with this opinion.

BACKGROUND

Applicant claimed injury to her head, shoulders, forearms and wrists, to body systems including her digestive system, and circulatory system, and in the form of stress/anxiety, and depression, while employed by defendant as a child custody counselor during the period from September 4, 2017, through September 14, 2018 (ADJ11764709). Applicant also claimed injury to her head, psyche, nervous system, body systems, and in the form of stress while employed by defendant as a counselor on September 5, 2018 (ADJ11764682).

Applicant was initially seen by treating psychologist Dr. Frazier on September 21, 2018. (App. Exh. 4-C, L. Scott Frazier, Ph.D., October 19, 2018.) In the report Dr. Frazier noted that applicant's description of her work for defendant included:

> Dr. Andrea Hecht described her job as a very stressful one. Not only are the particular cases difficult and stressful, there is also limited time to process and deal with the content. … ¶ There are severe cases of conflict and abuse. Dr. Hecht reported that her responsibility is to write reports and recommend dispositions. Often this involves mediation sessions in particularly difficult family situations often involving domestic violence. ¶ Dr. Hecht reported that she began working for the San Bernardino Superior Court - Family Court Services on 07/08/17. She reported that within the first few months of beginning this job she began having increased anxiety and panic attacks.
> (App. Exh. 4-C, p. 6.)

Dr. Frazier diagnosed applicant as having a depressive disorder and concluded that:

> The impairment noted above was caused predominantly by industrial issues. Dr. Hecht has suffered significant anxiety, depression, panic, and upset due to working with highly-conflicted people, conducting mediation sessions of domestic violence situations, and writing reports recommending dispositions. She has felt overwhelmed and stress has accumulated over time. ¶ She has been severely traumatized by these highly-conflicted individuals and severe cases of conflict and abuse, which have caused significant depression and anxiety. …
> (App. Exh. 4-C, p. 28.)

QME Dr. Ghannam evaluated applicant on November 19, 2018. Dr. Ghannam took a history, reviewed the medical record, and performed various diagnostic psychological tests. Regarding applicant's development of psychiatric symptoms, Dr. Ghannam stated:

> … [S]he noticed that within a few months of taking the position she developed symptoms of severe anxiety and had panic-like attacks and she began to have spells of shakiness at work which were observed by her coworkers and her sleep became disrupted, including difficulty falling asleep and staying asleep and having nightmares and experiencing early morning awakening. ¶ In fact, her level of stress became so elevated that she decided to consult her primary care physician, Dr. Chen, which she did on numerous occasions, which are noted in the medical records of Dr. Chen, which were reviewed by the examiner. Specifically, on March 8, 2018, there is a visit with her primary care physician, Dr. Chen, where he notes continued work stress, increased anxiety and a worsening condition. … ¶ She continued to have elevated symptoms of distress despite the use of medications and her level of anxiety depression, anxiety and sleep disturbance continued, but she maintained her ability to work. Then, in the week prior to the date of her allegation of industrial injury, a coworker of hers suffered a massive cardiovascular event while at work and Ms. Hecht bore witness to this and 911 was called. Emergency medical technicians arrived, and her coworker had to be hospitalized for this major cardiovascular event, which resulted in triple bypass surgery.
> (App. Exh. 3, Jess Ghannam, Ph.D., November 19, 2018, pp. 5 – 6.)

Dr. Ghannam diagnosed posttraumatic stress disorder, major depressive disorder, and generalized anxiety disorder. (App. Exh. 3, pp. 11 – 12.) He stated that applicant's employment with defendant "met the above 50% threshold of primary industrial causation" and that her condition had not reached maximum medical improvement/permanent and stationary status. (App. Exh. 3, p. 13.)

On April 11, 2019, applicant was seen by treating psychologist Heath Hinze, Psy.D. (App. Exh. 1-A, Heath Hinze, Psy.D., April 11, 2019.) In his report Dr. Hinze noted:

> The patient states on a cumulative trauma from 09/04/2017 to 09/04/2018 she also developed the onset of psychological distress, depression, anxiety and insomnia. She attributes her symptoms to working in a stressful work environment, having heavy caseloads and due to the nature of cases she worked. She had to interview child abuse and domestic violence victims and it was difficult to support the children during those cases. … ¶ During the first few months of employment she began to suffer from increased anxiety and panic attacks. A couple of times the patient suffered from anxiety and panic attacks while working and usually had them at home. She had a difficult time making it through her shifts and broke down at home. She suffered from severe crying spells.
> (App. Exh. 1-A, pp. 2 – 3.)

On the issue of causation Dr. Hinze stated:

> The predominant cause of the psychological injury based on reasonable medical probability (greater than 50%) is the events of the workplace. … There will likely be issues of apportionment to address at the time of maximum medical improvement based on the patient's history of anxiety.
> (App. Exh. 1-A, p. 15.)

On August 12, 2019, treating psychologist Shannon Silverstein submitted a report wherein she stated:

> Andrea [sic] Hecht has been seen for weekly therapy sessions for approximately 8 months. … Her symptoms first emerged during her time as a Child Custody Recommending Counselor for the San Bernardino Superior Court Services Department, and peaked in September of 2018, when she finally became temporarily and totally disabled…. ¶ It is my opinion that Mrs. Hecht's recent symptoms have developed after repeated exposure to traumatic victim accounts, developing into a cumulative PTSD, and that her current disability is directly related to her employment as a Child Custody Recommending Counselor.
> (App. Exh. 2, Shannon Silverstein, Psy.D, August 12, 2019.)

QME Dr. Ghannam was provided additional medical records, and in his subsequent report, he stated:

> After having reviewed the additional medical records, I see no reason to alter, amend or change my opinions and conclusions from my original report. It remains my opinion that Ms. Hecht has in fact sustained an industrial injury to her psyche and that it has reached the above 51% threshold of predominant industrial causation over non-industrial causes and that the actual events of work were predominant to all other causes. … ¶ [I]t is my opinion with reasonable medical probability that 25% of her permanent disability can be apportioned to

non-industrial factors that predated the industrial injury of 2018 and 75% can be apportioned to the specific industrial injury in question.
(Joint Exh. X-1, Dr. Ghannam, December 29, 2020, p. 7.)

On May 7, 2021, Dr. Ghannam's deposition was taken. (Joint Exh. X-3, Dr. Ghannam, May 7, 2021, deposition transcript.) The testimony included:

Q. When you apportioned the claim of industrial causation you said it was due to a specific injury. Correct?
A. Correct
(Joint Exh. X-3, p. 48 [EAMS p. 9].)
Q. Okay. So if you were to breakdown the industrial injury and you said 51 percent is due to work, what percentage would be for what incidents? The specific you said?
A. I am not required to give that kind of analysis, Counsel. My only responsibility is to opine whether or not a greater than 50 percent, you know, reasonable medical probability that the actual events of employment were predominant to all other causes. That's the only thing I am required to do, and then to give an apportionment to permanent disability.
That's it. I am not required to do anything else.
Q. So you are saying that you are finding industrial injury, but you are not addressing as to the time period or factors involved. Correct?
A. That's not my obligation.
(Joint Exh. X-3, pp. 49 – 50 [EAMS pp. 10 – 11].)
A. … There was only one incident. This was a specific incident that happened on a particular day. So, I mean, I am happy to do a Rolda analysis, but there is only one incident in question. So 100 percent would be apportioned to that one incident.
Q. And what incident was that?
A. The incident where a colleague had a cardiac or medical emergency.
(Joint Exh. X-3, p. 51 [EAMS p. 12].)
Q. So if the incident didn't happen on that date you would say it happened on the date that it did happen, correct?
A. Whatever the date of that medical emergency was is the date that I am alluding to.
(Joint Exh. X-3, p. 53 [EASM p. 14].)
Q. You said that the specific injury was the cause, correct?
A. Correct.
Q. What was the specific injury? What was the cause of that incident?
A. The medical emergency that happened to the colleague on the day at work.
Q. What was that emergency, Sir?
A. 911 had to be called. A colleague of hers was having a medical emergency. Paramedics had to come in and extract the colleague from work and put her into an ambulance. … Was she present, my assumption is that she was present somewhere in the building, yes.
(Joint Exh. X-3, p. 56 [EAMS p. 17].)

> Q. You find Ms. Hecht's injury to be specific and not cumulative, correct?
> A. Well, that's a point of contention, Counsel. … If you are asking me clinically the totality of her work experience -- I will just be direct about it. … I could see cumulative trauma injury complaints in this matter, however that's not the way it was filed. So I had to make the determination based on how the application was filed, which is what I did.
> (Joint Exh. X-3, p. 72 [EAMS p. 33].)

The parties proceeded to trial on September 11, 2019, and the issues identified by the parties included injury AOE/COE as to both injury claims. The summary of applicant's testimony includes:

> Another coworker, Lorin Mondragon, also a counselor like applicant, suffered a heart attack and was escorted out by paramedics, due to an elevator problem. Applicant learned later that Lori had triple by-pass heart surgery. This event rattled her mentally and made her think about her own condition. (Minutes of Hearing and Summary of Evidence
> (MOH/SOE), September 11, 2019, p. 2.)

The matter was continued and the summary of applicant's testimony at the October 14, 2019 trial includes:

> She is cited to the Summary of the Evidence for the P.M. session on 9/11/19, herein page 2, lines 20-25 which she reviews including line 21 and states that she did not know what the emergency was about or how it related to work. She did not know why the person left work. ¶ The work difficulty problem was discussed during lunch. She does not know if stress was the cause. … ¶ She was not with Ms. Mondragon at the time as her office was six offices away. Ms. Mondragon did not tell applicant she had a heart attack due to stress. She believes she saw her walk out and while looking out the window, she saw her on the gurney. … She got information about a heart attack later that day but had heard of symptoms which had preceded the attack but cannot recall the source of this information. She does not recall if Ms. Laurie Mondragon told her about having a heart attack.
> (MOH/SOE October 14, 2019, pp. 4 – 5.)

The trial was continued for further development of the record. (MOH/SOE, October 14, 2019, p. 2.) At the June 16, 2021 trial the WCJ noted that, "Judge Pusey had taken the matter off calendar for further development of the record, which has taken place" and the parties agreed that, "… [T]his matter may be submitted for determination of the issues raised at the commencement of the trial on September 11, 2019." (MOH/SOE, June 16, 2021, pp. 2 and 3.)

DISCUSSION

To be substantial evidence a medical opinion must be based on pertinent facts, on an adequate examination and accurate history, and it must set forth the basis and the reasoning in support of the conclusions. (*Escobedo v. Marshalls* (2005) 70 Cal.Comp.Cases 604 (Appeals Board en banc).) A medical opinion is not substantial evidence if it is based on facts no longer germane, on inadequate medical histories or examinations, on incorrect legal theories, or on surmise, speculation, conjecture, or guess. (*Place v. Workmen's Comp. Appeals Bd.* (1970) 3 Cal.3d 372 [35 Cal.Comp.Cases 525]; *Hegglin v. Workmen's Comp. Appeals Bd*. (1971) 4 Cal.3d 162 [36 Cal.Comp.Cases 93].)

As stated by the WCJ in the Opinion on Decision, in his initial report, it appears that Dr. Ghannam described applicant as having a cumulative psychiatric injury, predominately caused by her work. (App. Exh. 3, pp. 5 - 6.) He subsequently testified that the cause of applicant's psychiatric injury was:

> The incident where a colleague had a cardiac or medical emergency. …
> 911 had to be called. A colleague of hers was having a medical emergency. Paramedics had to come in and extract the colleague from work and put her into an ambulance.
> (Joint Exh. X-3, p. 51 [EAMS p. 12] and p. 56 [EAMS p. 17].)

Dr. Ghannam's testimony is inconsistent with applicant's testimony, as noted above, and it appears to be inconsistent with his initial report, describing the cumulative events of applicant's employment. For these reasons, and as more fully explained by the WCJ in the Opinion on Decision, we agree that Dr. Ghannam's reports and deposition testimony do not constitute substantial evidence as to the issue of injury AOE/COE.

However, we must note that, whether a report, or deposition testimony, is substantial evidence is a determination regarding the weight of the evidence, not its admissibility. (Lab. Code, § 4628, Cal. Code Regs., tit. 8, § 10862(c); *Gaytan v. Workers' Comp. Appeals Bd.,* (2003) 109 Cal. App. 4th 200, 213 [68 Cal.Comp.Cases 693]; see also *Los Altos El Granada Investors v. City of Capitola* (2006) 139 Cal.App.4th 629, 658, 43 Cal.Rptr.3d 434.) Thus, Dr. Ghannam's reports and deposition transcripts may remain in the trial record. Upon return, the WCJ continues to have the option to consider the issue of the opinions of Dr. Ghannam in relation to Labor Code section 139.2(d)(2).

Further, our review of the record indicates that Dr. Silverstein and Dr. Frasier were not provided the extensive medical records regarding the psychiatric/psychological treatment that applicant received prior to her employment with defendant. The reports from Dr. Silverstein and Dr. Frasier do not include the review or the doctors' consideration of applicant's prior symptoms and treatment. When a medical examiner or a treating physician is not provided relevant medical records, the report generated by that doctor is not likely to comply with the standard for substantial medical evidence i.e. a report that is based on an inadequate medical history is not substantial evidence (*Place v. Workmen's Comp. Appeals Bd., supra*; *Hegglin v. Workmen's Comp. Appeals Bd*., *supra*.) Thus, the reports from Dr. Silverstein and Dr. Frasier are not substantial evidence as to the issue of injury AOE/COE and may not be the basis for a finding of industrial injury.

Any award, order, or decision of the Appeals Board must be supported by substantial evidence. (Lab. Code, § 5952(d); *Lamb v. Workmen's Comp. Appeals Bd.* (1974) 11 Cal.3d 274, 281 [39 Cal.Comp.Cases 310]; *Garza v. Workmen's Comp. Appeals Bd.* (1970) 3 Cal.3d 312, 317 [35 Cal.Comp.Cases 500]; *LeVesque v. Workmen's Comp. Appeals Bd.* (1970) 1 Cal.3d 627, 635 [35 Cal.Comp.Cases 16].) The Appeals Board has the discretionary authority to further develop the record where there is insufficient evidence to determine an issue that was submitted for decision. (*McClune v. Workers' Comp. Appeals Bd.* (1998) 62 Cal.App.4th 1117, 1121-1122 [63 Cal.Comp.Cases 261].)

Normally, when the medical record requires further development, the record should first be supplemented by physicians who have already reported in the case. (See *McDuffie v. Los Angeles County Metropolitan Transit Authority* (2001) 67 Cal.Comp.Cases 138 (Appeals Board en banc).) However, under the circumstances of this matter, we agree with the WCJ that the parties need to have applicant evaluated by an agreed medical examiner, or in the alternative the WCJ may appoint a regular physician. (Lab. Code § 5701.)

Finally, for the reasons discussed above, the trial record must be further developed regarding applicant's psychiatric injury claim, and as determined by the WCJ, the record must be further developed as to the other body parts claimed. Defendant's argument to the contrary is inconsistent with the applicable case law. (See *Kuykendall v. Workers' Comp. Appeals Bd.* (2000) 79 Cal.App.4th 396, 403 [65 Cal.Comp.Cases 264]; *Tyler v. Workers' Comp. Appeals Bd.* (1997) 56 Cal.App.4th 389 [62 Cal.Comp.Cases 924].)

Accordingly, as our decision after reconsideration, we rescind the F&O and substitute a new F&O, which defers the issue of whether applicant sustained a psychiatric injury and to other body parts in case number ADJ11764709 (Finding of Fact 1) and the issue of whether applicant sustained injury in case number ADJ11764709 (Finding of Fact 2); finds that based on the record, defendant did not meet its burden under Labor Code section 3208.3(h) to show that compensation was barred; defers all other issues; and orders further development of the record per the orders of the WCJ. We return the matter to the WCJ for further proceedings consistent with this opinion.

For the foregoing reasons,

IT IS ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board, that the September 8, 2021 Joint Findings and Orders is **AFFIRMED**, except that it is **AMENDED** as follows:

FINDINGS OF FACT

(1) Andrea Cheri Hecht, while employed during the period from July 8, 2017, through September 14, 2018, in case number ADJ11764709, as a Child Custody Recommending Counselor, in San Bernardino, California, by Superior Court of California, County of San Bernardino, who was permissibly self-insured and whose workers' compensation insurance administrator was Acclamation-Sacramento, claims psychiatric injury and to other body parts. The issue of injury to body parts is deferred.

* * *

(2) Andrea Cheri Hecht, claims industrial injury while employed on September 5, 2018, in case number ADJ11764682, as a Child Custody Recommending Counselor, in San Bernardino, California, by Superior Court of California, County of San Bernardino, who was permissibly self-insured and whose workers' compensation insurance administrator was Acclamation-Sacramento. The issue of injury AOE/COE is deferred.

(3) Based on the evidence in the record, defendant did not meet its burden under Labor Code section 3208.3(h) to show that compensation was barred.

(4) All other issues are deferred.

ORDERS

IT IS ORDERED that further development of the record is required in order to reach determinations in the issues raised. The parties are to either agree to the use of AMEs in the fields of psychology or psychiatry and internal medicine, or the undersigned WCJ will appoint IMEs in these disciplines.

IT IS FURTHER ORDERED that these maters be scheduled for status conference to address the further development of the record.

IT IS FURTHER ORDERED that the matter is **RETURNED** to the WCJ for further proceedings consistent with this opinion.

WORKERS' COMPENSATION APPEALS BOARD

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

I DISSENT,

/s/ MARGUERITE SWEENEY, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

MARCH 1, 2022

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

ANDREA CHERI HECHT
THE MYERS LAW GROUP
KUNTZ & BUSI

TLH/*pc*

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

DISSENTING OPINION OF COMMISIONER MARGUERITE SWEENEY

For the reasons discussed below, it is my opinion that Dr. Frazier's reports are substantial evidence that applicant sustained a cumulative psychiatric injury AOE/COE, during the period from July 8, 2017, through September 4, 2018. Based thereon, I respectfully dissent.

In his October 19, 2018 report Dr. Frazier stated:

> She [applicant] is suffering from anxiety and depression due to an accumulation of being exposed to traumatic and stressful events in dealing with court cases of highly-conflicted individuals and severe cases of conflict and abuse. This has traumatized her, causing significant symptoms of anxiety, depression, nervous tension, panic, and upset. (App. Exh. 4-C, p. 25.)

Dr. Frazier later explained:

> The impairment noted above was caused predominantly by industrial issues. Dr. Hecht has suffered significant anxiety, depression, panic, and upset due to working with highly-conflicted people, conducting mediation sessions of domestic violence situations, and' writing reports recommending dispositions. She has felt overwhelmed and stress has accumulated over time. (App. Exh. 4-C, p. 28.)

Dr. Frazier's evaluation of applicant included psychometric tests and a mental status examination. (See App. Exh. 4-C pp. 19 – 23.) The doctor's opinions appear to be based on his examination of applicant and the history he was given by applicant. Dr. Frazier was aware of applicant's prior psychology issues because she disclosed that to him. (App. Exh, 4-B, p. 1.) The Petition acknowledges that applicant did not have treatment for several years prior to the subject employment. (Petition, p.3 lines 5 – 7.) While prior psychological history is highly relevant to the issue of apportionment, the record as a whole supports a finding that applicant sustained a cumulative psychiatric injury, AOE/COE. I see no basis for concluding that his opinions are the result of surmise, speculation, or guess. When considered in the context of the entire trial record, Dr. Frazier's reports constitute substantial evidence. (*Granado v. Workmen's Comp. Appeals Bd.* (1968) 69 Cal.2d 399 [33 Cal.Comp.Cases 647]; *McAllister v. Workmen's Comp. Appeals Bd.* (1968) 69 Cal.2d 408 [33 Cal.Comp.Cases 660]; *Escobedo v. Marshalls* (2005) 70 Cal.Comp.Cases 604 (Appeals Board en banc).)

Although I agree with the majority that "as determined by the WCJ, the record must be further developed as to the other body parts claimed," I would amend the F&O to find that

applicant sustained a cumulative psychiatric injury AOE/COE, during the period from July 8, 2017, through September 5, 2018; and I would otherwise affirm the F&O, including deferral of the issues deferred by the WCJ.

For these reasons, I disagree with the majority and I dissent.

WORKERS' COMPENSATION APPEALS BOARD

/s/ MARGUERITE SWEENEY, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

MARCH 1, 2022

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

ANDREA CHERI HECHT
THE MYERS LAW GROUP
KUNTZ & BUSI

TLH/*pc*

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

JOINT OPINION ON DECISION (pp.6-7)

Both Judge Pusey and the undersigned WCALJ requested clarification from Dr. Ghannam as to date of injury (whether applicant's claim(s) is/are a specific injury, cumulative trauma injury or both). As of the date of Dr. Ghannam's initial report of 11/19/2018, the claim is for a date of injury of 9/5/2018, the date applicant actually went off work. In that initial report of 11/19/2018, applicant appears to describe a continuous trauma-type of injury. At Page 5 (History of Present Illness), it is noted that applicant's job duties in the Family Court at San Bernardino included:

> "…to do the initial custody evaluations, evaluate domestic violence claims and child abuse cases and prepare reports in a timely matter [sic], frequently having to interview victims as well as assailants. Not only did she interview parents and children, she had to interview teachers, CPS workers and anyone involved in the allegations of either child abuse or domestic violence. This was a job in which she had to either bear witness to or hear the stories of significant violence and bodily injury to children and adults. She would have to write reports in a very timely matter [sic], typically within a few days, and she noticed that within a few months of taking the position she developed symptoms of severe anxiety and had panic-like attacks and she began to have spells of shakiness at work which were observed by her coworkers and her sleep became disrupted, including difficulty falling asleep and staying asleep and having nightmares and experiencing early morning awakening."

Dr. Ghannam in fact noted that Mrs. Hecht consulted with her primary care physician, Dr. Chen, on numerous occasions, which are noted in the medical records of Dr. Chen, which were reviewed by Dr. Ghannam. He specifically noted a 3/8/2018 visit that documents continued work stress, increased anxiety and a worsening condition. Dr. Chen prescribed anxiolytics and antidepressants. Dr. Ghannam noted applicant continued to have elevated symptoms of distress despite the use of medications and her symptoms of anxiety, depression and sleep disturbance continued, even though she maintained her ability to work. Dr. Ghannam noted that in the week prior to the date of her allegation of industrial injury, a coworker had suffered a massive cardiovascular event while at work and "…**Ms. Hecht bore witness to this and 911 was called.**" This event was described as being extraordinarily distressing for Ms. Hecht and "…**it exacerbated her already distressing symptoms of anxiety and depression.**" He describes that Mrs. Hecht as becoming so distraught and her symptoms so acute that she was unable to function and decided to go into work the next day on 9/5/2018 and indicated that she was unable to function or work and needed help. She was referred to Kaiser Occupational Health and work stress was indicated in their note taking applicant off work on 9/5/2018.

Dr. Ghannam concluded, without stating whether applicant sustained a specific injury, a cumulative trauma injury, or both, that it was his opinion with reasonable medical probability that applicant sustained an industrial injury to her psyche and that the actual events of employment have met the above 50% threshold of primary industrial causation over non-industrial causes.

Dr. Ghannam's subsequent reports and depositions are what caused the undersigned to find the substantiality of Dr. Ghannam's opinions to be significantly lacking and his understanding of what constitutes a cumulative trauma injury and what constitutes a specific injury to be flawed. Further, in his 5/7/2021 deposition (Exhibit X-3), when asked to break down the industrial injury into its component parts, Dr. Ghannam stated that it is not his obligation to do that and that he is not required to give that kind of analysis. This, of course, is a ridiculous answer – of course he is required and it is his obligation to do that. After reading that testimony, it became clear to the undersigned that Dr. Ghannam did not fully understand his responsibility as a Panel QME and what he was required to do. While clearly documenting the multiple stressors of Mrs. Hecht's job over the time of her employment and her multiple visits to her primary treating physician to seek treatment for increasing symptoms, he makes the ridiculous statement that there was only one specific incident (the co-worker's medical event that Ms. Hecht only heard about and did not actually witness) that caused 100% of the injury! Then Dr. Ghannam made that statement that he was only going to opine on what he is legally required to do. That statement, in and of itself, would be sufficient to find his opinions lacking in substantiality, as he clearly doesn't understand what his duties and responsibilities are.