

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

**ELIZABETH SOSA MEZA, *Applicant***

**vs.**

**ENCINO HOSPITAL MEDICAL CENTER; SAFETY NATIONAL INSURANCE,  
administered by AMERICAN CLAIMS MANAGEMENT, *Defendants***

**Adjudication Number: ADJ12562949  
Van Nuys District Office**

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

Defendant seeks reconsideration of the July 14, 2021 Findings of Fact wherein the workers' compensation administrative law judge (WCJ) found that applicant, while employed as a Certified Nursing Assistant at Encino Hospital Medical Center, sustained injury arising out of and in the course of employment to her cervical spine, bilateral shoulders, wrists, hands, and lumbar spine.

Defendant contends that applicant did not provide sufficient evidence that she sustained a cumulative trauma injury and that applicant's trial testimony shows that she sustained a series of specific injuries.

The WCJ prepared a Report and Recommendation on Petition for Reconsideration (Report), recommending that the Petition be denied.

We have considered the Petition for Reconsideration and the contents of the Report, and we have reviewed the record in this matter. For the reasons discussed below, we will grant reconsideration, rescind the Findings of Fact, and return this matter to the trial level for further proceedings and a new decision.

As with any decision by a WCJ, a decision whether applicant sustained a cumulative injury must be supported by substantial evidence in light of the entire record. (Lab. Code, § 5952(d); *See 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].)

Labor Code section 3208.1<sup>1</sup> provides that a cumulative industrial injury occurs whenever the repetitive physically traumatic activities of an employee's occupation cause any disability or a need for medical treatment. The question of whether repetitive traumatic activities caused injury can only be answered with substantial medical evidence. It has long been recognized that medical proof is required when issues of diagnosis, prognosis, and treatment are beyond the bounds of ordinary knowledge. (*City & County of San Francisco v. Industrial Acc. Com. (Murdock)* (1953) 117 Cal.App.2d 455 [18 Cal.Comp.Cases 103]; *Bstandig v. Workers' Comp. Appeals Bd.* (1977) 68 Cal.App.3d 988 [42 Cal.Comp.Cases 114].)

Labor Code section 4060(c) states, "[i]f a medical evaluation is required to determine compensability at any time after the filing of the claim form, and the employee is represented by an attorney, a medical evaluation to determine compensability shall be obtained only by the procedure provided in Section 4062.2." Section 4060(c) clearly provides that "the section 4062.2 procedure for medical evaluations on compensability may be undertaken 'at any time' after a claim form has been filed." (*Mendoza v. Huntington Hospital* (2010) 75 Cal.Comp.Cases 634, 642 (Appeals Bd. en banc).)

In this case, the record does not reflect that the parties obtained a comprehensive medical-legal report on the issue of causation of injury. As discussed above, a finding that applicant did or did not sustain a cumulative trauma injury must be based on substantial medical evidence. Given that there is a clear need for a medical evaluation to determine compensability, the parties should obtain an evaluation following the procedure set forth in Sections 4060 and 4062.2.

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<sup>1</sup> All further statutory references are to the Labor Code unless otherwise noted.

For the foregoing reasons,

**IT IS ORDERED** that defendant's Petition for Reconsideration of the July 14, 2021 Findings of Fact is **GRANTED**.

**IT IS FURTHER ORDERED**, as the Decision After Reconsideration of the Workers' Compensation Appeals Board, that the July, 14, 2021 Findings of Fact is **RESCINDED**, and the matter is returned to the trial level for further proceedings and a new decision.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ KATHERINE A. ZALEWSKI, CHAIR**

I CONCUR,

**/s/ JOSÉ H. RAZO, COMMISSIONER**

**/s/ CRAIG SNELLINGS, COMMISSIONER**



**DATED AND FILED AT SAN FRANCISCO, CALIFORNIA**

**September 27, 2021**

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

**ELIZABETH SOSA MEZA  
LAW OFFICE OF DAVID LAMONICA  
LAW OFFICE OF DANIEL LEE**

**MWH/oo**

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