WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

JULISSA DIAZ LOPEZ, *Applicant*

vs.

WPS FBO GARCO ENTERPRISES, INC. dba McDONALDS; SAFETY NATIONAL CASUALTY CORP., administered by BROADSPIRE, *Defendants*

Adjudication Number: ADJ12017211
Marina del Rey District Office

OPINION AND DECISION AFTER RECONSIDERATION

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

Applicant seeks reconsideration of the Findings of Fact and Order (F&O), issued by the workers' compensation administrative law judge (WCJ) on March 3, 2020, wherein the WCJ found in pertinent part that applicant did not sustain an industrial injury arising out of and in the course of employment (AOE/COE).

Applicant contends that the medical reports and records submitted constitute substantial medical evidence. Applicant also contends that there is neither ample or substantial evidence to support the WCJ's credibility determination regarding applicant's testimony.

Defendant filed an answer. The WCJ submitted a Report and Recommendation (Report) recommending that we deny reconsideration.

At the outset, we observe that to be timely, a petition for reconsideration must be filed with (i.e., received by) the WCAB within 25 days from a "final" decision that has been served by mail upon an address in California. (Lab. Code, §§ 5900(a), 5903[1]; Cal. Code Regs., tit. 8, former § 10507(a)(1), now § 10605(a)(1), former § 10845(a), now § 10940(a); former § 10392(a), now § 10615(b) (eff. Jan. 1, 2020).) A petition for reconsideration of a final decision by a workers' compensation administrative law judge must be filed in the Electronic Adjudication Management

[1] All statutory references not otherwise identified are to the Labor Code.

System (EAMS) or with the district office having venue. (Cal. Code Regs., tit. 8, former § 10840(a), now § 10940(a) (eff. Jan. 1, 2020).)

The Division of Workers' Compensation (DWC) closed its district offices for filing as of March 17, 2020 in response to the spread of the novel coronavirus (COVID-19).[2] In light of the district offices' closure, the Appeals Board issued an en banc decision on March 18, 2020 stating that all filing deadlines are extended to the next day when the district offices reopen for filing. (*In re: COVID-19 State of Emergency En Banc* (2020) 85 Cal.Comp.Cases 296 (Appeals Board en banc)[3].) The district offices reopened for filing on April 13, 2020.[4] Therefore, the filing deadline for a petition for reconsideration that would have occurred during the district offices' closure was tolled until April 13, 2020. Here, the F&O issued on March 3, 2020 and, because 25 days thereafter fell on Saturday March 28, 2020,[5] the deadline to timely file was tolled to April 13, 2020. As such, Applicant's Petition is timely.

We have considered the allegations of the Petition, the answer, and the contents of the Report of the WCJ with respect thereto. Based on our review of the record, and for the reasons discussed below, we will rescind the F&O and return the matter to the WCJ for further proceedings consistent with this decision and to issue a new decision from which any aggrieved person may timely seek reconsideration.

BACKGROUND

Applicant claimed injury to various body parts while employed by defendant as a cook, during the period from March 1, 2016 to February 25, 2019.

On February 27, 2019, applicant's primary treating physician (PTP) Waleed Jean Kattar, D.C. issued a report following an initial evaluation of applicant, which included a review of

---

[2] The March 16, 2020 DWC Newsline may be accessed here: https://www.dir.ca.gov/DIRNews/2020/2020-18.html.

[3] En banc decisions of the Appeals Board are binding precedent on all Appeals Board panels and WCJs. (Cal. Code Regs., tit. 8, former § 10341, now § 10325(a) (eff. Jan. 1, 2020); *City of Long Beach v. Workers' Comp. Appeals Bd.* (*Garcia*) (2005) 126 Cal.App.4th 298, 316, fn. 5 [70 Cal.Comp.Cases 109]; *Gee v. Workers' Comp. Appeals Bd.* (2002) 96 Cal.App.4th 1418, 1424, fn. 6 [67 Cal.Comp.Cases 236].)

[4] The April 3, 2020 DWC Newsline regarding reopening the district offices for filing may be accessed here: https://www.dir.ca.gov/DIRNews/2020/2020-29.html.

[5] There are 25 days allowed within which to file a petition for reconsideration from a "final" decision that has been served by mail upon an address in California. (Lab. Code, §§ 5900(a), 5903; Cal. Code Regs., tit. 8, former § 10507(a)(1), now § 10605(a)(1) (eff. Jan. 1, 2020).) This time limit is extended to the next business day if the last day for filing falls on a weekend or holiday. (Cal. Code Regs., tit. 8, former § 10508, now § 10600 (eff. Jan. 1, 2020).)

applicant's history and a physical examination. (Exhibit 2, Dr. Kattar's report, dated February 27, 2019.) As relevant herein, Dr. Kattar opined as follows:

> WORK STATUS:
> At this time, due to the severity of her condition, the patient is considered temporarily totally disabled until 4/10/19. (Exhibit 2, p. 13.)
>
> CAUSATION:
> From the patient's history, job duty description, mechanism of injury and my physical examination findings, it is my opinion that the causation of the patient's cervical spine, thoracic spine, lumbar spine, left shoulder, left elbow, and bilateral wrists/hands is due to the cumulative trauma industrial injury. (Exhibit 2, pp. 13-14.)
>
> APPORTIONMENT:
> I am aware of L.C. Sections 4663 and 4664, and at which time the patient's condition reaches permanent and stationary status, I will issue my apportionment opinion, according to these labor code statutes.
>
> It should be noted that the patient has been working for 2 employers at 2 different McDonald's locations since 2016, which will be taken into consideration. (Exhibit 2, p. 14.)
>
> DISCUSSION /TREATMENT RECOMMENDATIONS:
> The patient should undergo diagnostic testing in the form of: X-Rays of the cervical spine, lumbar spine, left shoulder and bilateral wrists. The patient should undergo an EMG of the bilateral upper extremities to rule out carpal tunnel syndrome. (*Id*.)
>
> I am also requesting the patient's prior medical records in order to better assess her condition. (Exhibit 2, p. 15.)
>
> ***
>
> It appears the patient's condition has become chronic as the condition persisted for several months and the patient had pain that persisted beyond the usual course of healing of an acute injury/disease. I will further follow up on this topic once diagnostics are obtained and additional information is made available for me. (*Id*.)

Dr. Kattar took the following occupational history:

> Ms. Diaz-Lopez began employment with WPS FBO Garco Enterprises, Inc. In 03/2016 for one McDonald's and since 2010 for another McDonald's, in

> the capacity of a cook. She was required to perform repetitive bending, twisting, stooping, turning, pushing, pulling, kneeling and squatting while cooking for two different McDonald's, preparing food, operating fryer machines, stocking merchandise in freezer, using grill and cooking food, arranging boxes of frozen food, stacking boxes of bread on racks, cleaning kitchen, sweeping, mopping, filling soda machines with ice, and taking out trash. Heavy lifting/ carrying of bags of trash and boxes of ketchup, frozen chicken nuggets, sausages and meat weighing more than 35-45 lbs. Prolonged standing and walking all day. Repetitive reaching at/ above shoulder level, gripping and grasping while cooking for two different McDonald's, preparing food, operating fryer machines, using grill and cooking food, cleaning kitchen, filling soda machines with ice, and reaching to throw out trash bags into large trash bin. Constant exposure to cold and hot temperatures. Repetitive climbing stairs to get merchandise from deliveries on bottom floor. Her job duties included, but were not limited to: lifting and carrying of up to 45 pounds, bending, stooping, twisting, turning, squatting, kneeling, balancing, crouching, pushing, pulling, reaching, gripping and grasping, and working. Prior to her injury, she was able to lift up to 45 lbs, but currently she can only lift up to 10 lbs. The patient also performed these regular and customary duties at times in awkward positions, including bending while lifting.
>
> She was exposed to marked change in temperature and humidity. She was exposed to chemicals. She worked in a standing position for 4 hours per day, and walking position for 3 hours per day, totaling to 6-7 hours per day and 4 days a week on average; however her hours were then cut down. She states that at the first McDonald's location that she started working in 2010, she worked 36 hours per week, but her hours were then cut down to 27 hours per week since 2016. She states then states at the second McDonald's location that she started working in 3/2016, she first worked 5 hours per day and 7 days per week totaling to 35 hours per week, but her hours were then cut down to 2 days per week totaling to 10 hours per week since 2/2018. (Exhibit 2, p. 2.)

Following the initial evaluation on February 27, 2019, Dr. Kattar made the following diagnoses: cervical, thoracic and lumbar spine sprain/strain, rule out discopathy; left shoulder impingement/tendonitis; left epicondylitis; bilateral carpal tunnel syndrome; chronic pain; stress; headaches; and sleep disturbances. (Exhibit 3, PR-2 reports from Dr. Waleed Kattar, p. 14.) Dr. Kattar placed applicant on temporary total disability until April 10, 2019. (*Id*.) Dr. Kattar also requested authorization for further treatment, as follows:

> X-Rays of the cervical spine, lumbar spine, left shoulder and bilateral wrists. EMG of the bilateral upper extremities to rule out carpal tunnel syndrome. Physiotherapy once a week for four weeks, acupuncture once a

> week for four weeks. Request for muscle strength test. Referral to psychologist. Dr. Hossain for consultation and pharmacological management. The patient is to follow-up in 4-6 weeks. (Exhibit 3, pp. 13-15.)

From April 11, 2019 to October 3, 2019, Dr. Kattar prepared further periodic progress reports. (Exhibit 3, pp. 1-12.) At each visit, notes were made regarding applicant's subjective complaints, Dr. Kattar's objective findings, and diagnoses. (Exhibit 3, pp. 1, 3, 5, 7, 9, and 11.) The handwriting is difficult to read, but the diagnoses appear consistent with the initial evaluation. Authorization for further treatment was requested in each progress report. (*Id*.) Dr. Kattar renewed his instruction that applicant remain off work on April 11, 2019, May 8, 2019, June 12, 2019, July 17, 2019, August 21, 2019, and October 3, 2019. (Exhibit 3, pp. 1-3, 7-8, 10, 12.) On October 3, 2019, applicant was instructed to remain off work until November 17, 2019. (Exhibit 3, pp. 1-2.)

In May 2019, it appears that applicant received physical therapy related to her injuries at West Hollywood Urgent Care. (Exhibit 1, West Hollywood Urgent Care records, May 5-28, 2019.)

On January 7, 2020, the parties proceeded to trial on the issues of AOE/COE, temporary disability, and attorneys' fees. (Minutes of Hearing and Summary of Evidence, January 7, 2020 trial (MOH/SOE).)

In pertinent part, applicant testified to the following:

> She worked at two different McDonald's locations during the relevant timeframe, La Brea and Wilshire. She believes that she sustained her injuries at the McDonald's on La Brea. The entire time she worked at La Brea, she also worked at Wilshire. (MOH/SOE, at 4:7-9.)
>
> At La Brea, she worked as a cook, a presenter, and a stocker. As a cook, her duties were to cook, fry chicken, and maintain the cleanliness of the kitchen area. As a presenter, she served customers. As a stocker, applicant moved boxes of meat and chicken between the kitchen and freezer multiple times per day. The boxes weighed between 35 and 45 pounds. She also moved boxes of frozen pancakes from a freezer to a thawing area. She also stocked racks of bread inside a freezer. (MOH/SOE, at 3:8-16, 18-19.) Her duties also involved filling soda machines and/or smoothie machines with ice. (MOH/SOE, at 5:4-7.)
>
> At Wilshire, her job duties were to cook, to open the restaurant, and to clean the kitchen. (MOH/SOE, at 4:2-6; 5:19-22.) There were stairs at Wilshire and she carried items up and down the stairs. (MOH/SOE, at 5:1-3.) There were no stairs at La Brea. (*Id*.)

The biggest difference between her duties at the two locations was that she lifted boxes at La Brea and there was no heavy lifting at Wilshire. (MOH/SOE, at 4:1-10; 5:21-22.)

In any given week, applicant typically worked at both locations. (MOH/SOE, pp. 4-5.) In the eight months prior to being placed on temporary total disability by Dr. Kattar, applicant worked at Wilshire and then went to La Brea. (MOH/SOE, at 4:21-22.)

In May of 2017, she felt a crack in her back when she was working in the freezer at La Brea. She reported her low back symptoms to her supervisor Nancy Sanchez. (MOH/SOE, at 3:21-25; 5:10-11.) On the same day she reported the incident to the manager. (MOH/SOE, at 5:12-13.) Applicant testified that she notified Ms. Sanchez about injuries four or five times between May 2017 and the beginning of 2018. Over time, she started having pain in her neck, left shoulder, and both wrists. (MOH/SOE, at 3:21-25.)

Applicant told Dr. Kattar about the activities that she performed at each of the locations. (MOH/SOE, at 5:7-10.) She did not perceive pain from her activities while she was working at Wilshire. (MOH/SOE, at 4:23-24.)

DISCUSSION

The employee bears the burden of proving injury AOE/COE by a preponderance of the evidence. (*South Coast Framing v. Workers' Comp. Appeals Bd*. (*Clark*) (2015) 61 Cal.4th 291, 297-298, 302 [80 Cal.Comp.Cases 489]; Lab. Code, §§ 3600(a); 3202.5.) The Supreme Court of California has long held that an employee need only show that the "proof of industrial causation is reasonably probable, although not certain or 'convincing.'" (*McAllister v. Workmen's Comp. Appeals Bd.* (1968) 69 Cal.2d 408, 416-417, 419 [33 Cal.Comp.Cases 660].) "That burden manifestly does not require the applicant to prove causation by scientific certainty." (*Rosas v. Workers' Comp. Appeals Bd*. (1993) 16 Cal.App.4th 1692, 1701 [58 Cal.Comp.Cases 313].)

Labor Code section 3208.1 provides that an injury may be either cumulative or specific. No cumulative injury can occur without disability. (*Van Voorhis v. Workmen's Comp. Appeals Bd.* (1974) 37 Cal.App.3d 81, 86-87 [39 Cal.Comp.Cases 137]; *Aetna Cas. & Surety Co. v. Workmen's Comp. Appeals Bd. (Coltharp)* (1973) 35 Cal.App.3d 329, 342-343 [38 Cal.Comp.Cases 720]; *Ferguson v. City of Oxnard* (1970) 35 Cal.Comp.Cases 452 (Appeals Board en banc).) As used in Section 5412, "disability" means either compensable temporary disability or permanent disability. Medical treatment alone is not "disability" for purposes of determining the date of a cumulative injury pursuant to section 5412, but it may be evidence of compensable permanent disability. (*State*

Compensation Insurance Fund v. Workers' Comp. Appeals Bd. (Rodarte) (2004) 119 Cal.App.4th 998, 1005 [69 Cal.Comp.Cases 579, 584].) Likewise, modified work is not a sufficient basis for finding compensable temporary disability, but it may be indicative of a compensable permanent disability, especially if the worker is permanently precluded from returning to his usual and customary job duties. (*Id*.)

Section 5412 provides that "[t]he date of injury in cases of occupational diseases or cumulative injuries is that date upon which the employee first suffered disability therefrom and either knew, or in the exercise of reasonable diligence should have known, that such disability was caused by his present or prior employment." (Lab. Code, § 5412.) Defendant's burden of proving the knowledge component of Labor Code Section 5412 is not met merely by showing that the employee knew he or she had some symptoms. (*Chambers v. Workmen's Comp. Appeals Bd*. (1968) 69 Cal.2d 556, 559 [33 Cal.Comp.Cases 722]; *Pacific Indemnity Co. v. Industrial Acc. Com. (Rotondo)* (1950) 34 Cal.2d 726, 729 [15 Cal.Comp.Cases 37].) Generally an employee is not chargeable with knowledge of an industrial injury until so advised by a physician unless the employee has medical knowledge or specialized training to establish knowledge of an industrial injury. (*City of Fresno v. Workers' Comp. Appeals Bd*. (*Johnson*) (1985) 163 Cal.App.3d 467, 473 [50 Cal.Comp.Cases 53].) Whether an employee knew or should have known that the disability is industrially related is generally a question of fact to be determined by the trier of fact, i.e., the WCJ. (*Id.,* at p. 471; *Nielsen v. Workers' Comp. Appeals Bd*. (1985) 164 Cal.App.3d 918 [50 Cal.Comp.Cases 104]; *Chambers, supra*, at p. 559; *Alford v. Industrial Accident Com*. (1946) 28 Cal.2d 198 [11 Cal.Comp.Cases 127].)

Here, applicant notified Nancy Sanchez, her supervisor at the La Brea McDonald's, that she felt a crack in her back when she was working in the freezer at La Brea in May 2017. (MOH/SOE, pp. 3, 5.) She also reported her low back symptoms to her manager at the La Brea McDonald's. (MOH/SOE, p. 5.) Applicant notified Ms. Sanchez about injuries four or five times between May 2017 and the beginning of 2018, including pain in her neck, left shoulder, and both wrists. (MOH/SOE, p. 3.) While Applicant did not believe her work at Wilshire contributed to her injuries, she was not questioned thoroughly regarding her work at the Wilshire location. (MOH/SOE, p. 4.) Based on the information in the record, we are unable to determine the answer to either prong set forth in section 5412.

Compensable disability may be caused by the cumulative contribution of daily work strains, as well as by a single traumatic incident. (*McLaughlin, supra*, at p. 836, citing *Firemen's Fund Indem. Co. v. Industrial Acc. Com. (Gregory)* (1952) 39 Cal.2d 831, 834; *Beveridge v. Industrial Acc. Com*. (1959) 175 Cal.App.2d 592, 594-595; *Argonaut Ins. Co. v. Industrial Acc. Com*. (*Harries*) (1964) 231 Cal.App.2d 111, 116-117.) In addition, we note that although the mere "exacerbation" of a pre-existing condition is not an industrial injury, the acceleration, aggravation or lighting-up of a preexisting condition by an applicant's employment may constitute an industrial injury. (See *City of Los Angeles v. Workers' Comp. Appeals Bd. (Clark)* (2017) 82 Cal.Comp.Cases 1404 [writ den.].) For the purpose of meeting the causation requirement in a workers' compensation injury claim, it is sufficient if the work is a contributing cause of the injury. (*Clark, supra*, at pp. 298-299.) If applicant's work progressively aggravated pre-existing conditions, she may well have sustained a cumulative injury AOE/COE.

While lay testimony, including applicant's testimony, can be used to establish that applicant's occupation involved repetitive traumatic activities, medical evidence is required to establish a date of injury pursuant to Section 5412 because the existence of disability or need for medical treatment is a medical question beyond the bounds of ordinary knowledge. (*Peter Kiewit Sons v. Ind. Acc. Comm. (McLaughlin)* (1965) 234 Cal.App.2d 831, 838-839 [30 Cal.Comp.Cases 188]; *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].) Thus, the existence of disability is a medical question, notwithstanding the WCJ's credibility determination regarding applicant's testimony. When deciding a medical issue, such as whether the applicant sustained a cumulative trauma injury, the WCJ must utilize expert medical opinion. (See *Insurance Company of North America v. Workers' Comp. Appeals Bd*. (*Kemp*) (1981) 122 Cal.App.3d 905 [46 Cal.Comp.Cases 913].) Generally, and especially in cases of cumulative injury, medical causation cannot be established without corroborating expert medical opinion. (*McLaughlin, supra*, at pp. 838-839.)

Here, applicant worked at two different locations during the relevant timeframe, La Brea and Wilshire. Although applicant believes that she sustained her injuries at the McDonald's on La Brea, and not at Wilshire, Dr. Kattar noted that she performed many of the same repetitive tasks while cooking at both La Brea and Wilshire. (MOH/SOE, p. 4; Exhibit 2, p. 2.) Moreover, applicant testified that in any given week, she typically worked at both locations and the biggest

difference between her duties at the two locations was that she lifted boxes at La Brea and there was no heavy lifting at Wilshire. (MOH/SOE, pp. 4-5.) Dr. Kattar diagnosed injuries AOE/COE to various body parts based on a physical examination of applicant and a review of her occupational and medical history. (Exhibit 2, pp. 13-14.) However, Dr. Kattar requested additional medical records and diagnostic testing, stating that he would follow up once he had the test results and medical records. (Exhibit 2, p. 15.) He also noted that he would take into consideration that applicant appeared to be working for two different employers at two different locations. (Exhibit 2, p. 14.)

An award, order or decision by the Appeals Board must be supported by substantial evidence in light of the entire record. (Lab. Code §§ 5903, 5952; G*arza v. Workmen's Comp. App. Bd.* (1970) 3 Cal.3d 312, 317-319 [33 Cal.Comp.Cases 500]; *LeVesque v. Workmen's Comp. Appeals Bd*. (1970) 1 Cal.3d 627, 635-637 [35 Cal.Comp.Cases 16].) Turning to whether there is substantial medical evidence of industrial causation, a medical opinion must be framed in terms of reasonable medical probability, it must be based on an adequate examination and history, and it must set forth reasoning to support the expert conclusions reached. (*E.L. Yeager Construction v. Workers' Comp. Appeals Bd*. (*Gatten*) (2006) 145 Cal.App.4th 922, 928 [71 Cal.Comp.Cases 1687].) To constitute substantial evidence ". . . a medical opinion must be framed in terms of reasonable medical probability, it must not be speculative, it must be based on pertinent facts and on an adequate examination and history, and it must set forth reasoning in support of its conclusions." (*Escobedo v. Marshalls* (2005) 70 Cal.Comp.Cases 604, 621 (Appeals Board en banc).) "Medical reports and opinions are not substantial evidence if they are known to be erroneous, or if they are based on facts no longer germane, on inadequate medical histories and examinations, or on incorrect legal theories. Medical opinion also fails to support the Board's findings if it is based on surmise, speculation, conjecture or guess." (*Hegglin v. Workmen's Comp. Appeals Bd*. (1971) 4 Cal.3d 162, 169 [36 Cal.Comp.Cases 93].)

Here, having reviewed the trial record, including Dr. Kattar's report, it appears that the record does not contain substantial medical evidence upon which a finding on the issue of injury AOE/COE can be made. Dr. Kattar requested additional records and the results of diagnostic testing and thus his opinions currently lack a solid underlying basis. (*County of Sacramento v. Workers' Comp. Appeals Bd. (Brooks)* (2013) 215 Cal.App.4th 785, 797 [78 Cal.Comp.Cases 379]; *Escobedo*, *supra*; *Hegglin, supra*.) Furthermore, he does not offer an opinion regarding the

employer(s), specific activities, and/or location with respect to causation. Thus, based on the record before us, his opinions do not constitute substantial medical evidence.

The WCJ and the Appeals Board have a duty to further develop the record where there is insufficient evidence on a threshold issue. (Lab. Code, §§ 5701, 5906; *McClune v. Workers' Comp. Appeals Bd*. (1998) 62 Cal.App.4th 1117, 1121-1122 [63 Cal.Comp.Cases 261]; *Tyler v. Workers' Comp. Appeals Bd*. (1997) 56 Cal.App.4th 389 [62 Cal.Comp.Cases 924].) Sections 5701 and 5906 authorize the WCJ and the Board to obtain additional evidence, including medical evidence (*McDuffie v. Los Angeles County Metropolitan Transit Authority* (2001) 67 Cal.Comp.Cases 138, 141 (Appeals Board en banc).) The Appeals Board may not leave matters undeveloped where it is clear that additional discovery is needed. (*Kuykendall v. Workers' Comp. Appeals Bd*. (2000) 79 Cal.App.4th 396, 404 [65 Cal.Comp.Cases 264].)

In *McDuffie*, we stated that "[w]here the medical record requires further development either after trial or submission of the case for decision," the medical record should first be supplemented by physicians who have already reported in the case. "Only if the supplemental opinions of the previously reporting physicians do not or cannot cure the need for development of the medical record, should other physicians be considered." (*McDuffie*, *supra*, at pp. 139, 142.)

Upon return to the WCJ, it would be appropriate for the parties to request that Dr. Kattar submit a supplemental report with updated medical records. It may also be in the parties' interest to obtain a comprehensive medical-legal evaluation in order to properly litigate the issue of injury AOE/COE. (Lab. Code, §§ 4060, 4061, 4062, 4062.2.)

Accordingly, we rescind the March 3, 2020 Order, and return the matter to the WCJ for further development of the record and proceedings consistent with this decision. When the WCJ issues a new decision any aggrieved person can timely seek reconsideration.

For the foregoing reasons,

IT IS ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board, that the March 3, 2020 Findings of Fact and Order is **RESCINDED** and that this matter is **RETURNED** to the trial level for further proceedings and decision by the WCJ consistent with this opinion.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE ZALEWSKI, CHAIR

I CONCUR,

/s/ MARGUERITE SWEENEY, COMMISSIONER

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

January 5, 2022

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

JULISSA DIAZ LOPEZ
WACHTEL LAW
SCHLOSSBERG & UMHOLTZ

JB/abs

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