WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

GUADALUPE MEDINA, *Applicant*

vs.

MI PUEBLO FOOD CENTER; SAFETY NATIONAL CASUALTY, CORP., Adjusted by YORK/SEDGWICK, *Defendants*

Adjudication Numbers: ADJ8833063 (MF), ADJ8864536, ADJ10120548, ADJ15824387
San Jose District Office

OPINION AND ORDER GRANTING PETITIONS FOR RECONSIDERATION AND DECISION AFTER RECONSIDERATION

We have considered the allegations of the Petitions 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, except as noted below, we will grant reconsideration, rescind the WCJ's decision, and return this matter to the WCJ for further proceedings as the WCJ determines necessary and reissuance of the decision. This is not a final decision on the merits of any issues raised in the petition and any aggrieved person may timely seek reconsideration of the WCJ's new decision.

We do not adopt or incorporate the Report to the extent that it addresses the issue of occupational group number in section 9 of the Report located on pages 15 and 16. Rather, we find the reasoning of the panel decision in *Skains v. G6 Hosp. LLC*, 2020 Cal.Wrk.Comp. P.D. LEXIS 260 persuasive,[1] i.e., "the disability caused by a single injury is to be rated applying the same occupational group number to each of the injured body parts. It has long been the law that: '…Where the duties of the employee embrace the duties of two forms of occupation, the rating should be for the occupation which carries the higher percentage.' (*Dalen v. Worker's Comp.*

[1] While not binding, the WCAB may consider panel decisions to the extent that it finds their reasoning persuasive. (See *Guitron v. Santa Fe Extruders* (2011) 76 Cal.Comp.Cases 228, fn. 7 (Appeals Board en banc).)

Appeals Bd. (1972) 26 Cal.App.3d 497, 506 [37 Cal.Comp.Cases 393].)" Therefore, upon return of these matters to the trial level, the WCJ should determine one occupational group number for each injury and modify the ratings accordingly. We agree with the WCJ's reasoning on all other issues.

For the foregoing reasons,

IT IS ORDERED that reconsideration of the decision of July 17, 2023 is **GRANTED**.

IT IS FURTHER ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the decision of July 17, 2023 is **RESCINDED** and that these matters are **RETURNED** to the trial level for further proceedings and decision by the WCJ.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ CRAIG SNELLINGS, COMMISSIONER

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

September 29, 2023

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

GUADALUPE MEDINA
GRETCHEN A. PETERSON, ATTORNEY AT LAW
STANDER, REUBENS, THOMAS & KINSEY
EMPLOYMENT DEVELOPMENT DEPARTMENT

PAG/*ara*

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

REPORT AND RECOMMENDATION ON THREE (3) PETITIONS FOR RECONSIDERATION

I. INTRODUCTION

Applicant, Guadalupe Medina, while employed during the period 07/01/2001 – 12/01/2010, as a deli clerk/food prep worker, in San Jose, California, by Mi Pueblo Food Center, sustained an injury arising out of and arising in the course of employment to the bilateral hands and wrists, and psyche in ADJ8833063. There are a total of 4 claims included herein and ADJ8833063 is designated as the Master File.

The Findings and Award in this case issued on 07/16/2023 with service 07/17/2023. The Petitioners are BOTH Applicant and Defendant, who have both timely filed their verified Petitions for Reconsideration. Applicant has also filed a Petition for Correction of Clerical Error which will be addressed as an additional Petition for Reconsideration. The Petitions for Reconsideration are not legally defective. Applicant has filed an Answer to Defendant's Petition on 08/17/2023.

Petitioner contends that it was error to not award 100% total permanent disability based on expert vocational evidence due to headaches, and that the issue was not specifically addressed by this Judge in the Findings and Awards/Orders.

Defendant makes several contentions, including error in not reducing permanent disability by 15% due to a return to work, awarding temporary disability after the 5-year cap, awarding temporary disability without substantial evidence, failure of awarding a credit for EDD payments, re-deciding issues which are res judicata, and improperly allowing the use of more than one occupational group number.

II. FACTS

Applicant has a very complex set of facts. VERY generally, they are as follows:

1) Applicant was hired by Mi Pueblo Foods on or about 07/01/2001 as a deli clerk/food prep worker. Her last day of work was 05/18/2013.

2) Applicant suffered a cumulative trauma injury to her bilateral hands and wrists resulting in bilateral carpal tunnel releases. There was surgery, periods of temporary disability, return to work modified, additional surgery and release to return to full work. The claim was accepted. This claim is generally referred to as "claim #1." ADJ8833063 CT 07/01/2001 – 12/01/2010.

3) Applicant then suffered an injury to her neck, bilateral shoulders, right thumb and headaches on a cumulative basis through 12/26/2012, and there was medical evidence that this was a "new" injury and not part of the original hand claim. This claim was also accepted. Applicant underwent a thumb surgery in connection with this claim and there was a period of temporary disability with an eventual return to work. This claim is generally referred to as "claim #2." ADJ8864536 CT 07/01/2001 – 12/26/2012.

4) Applicant filed a claim for psychiatric injury due to an incident involving salsa, a wet blouse and a supervisor making suggestive remarks in front of male supervisors. This claim was previously tried and Applicant received a "take-nothing" on this claim. It is res judicata. This claim is generally referred to as "claim #3." ADJ10120548 CT 01/10/2013 – 05/18/2013 with Findings and Order dated 03/20/2018 finding no injury.

5) Applicant then amended the psychiatric injury (claim #3) and attempted to add headaches to that claim. After extensive discussions over multiple hearings it was determined that this was improper as that claim was "closed" and that it would be proper to file a "new" claim for the headaches albeit during the same period of exposure. Applicant did belatedly file such a claim, which was immediately denied. This is generally referred to as "claim #4." ADJ15824387 CT 01/10/2013 – 05/18/2013.

6) Each party obtained expert vocational evidence.

7) Applicant has filed a number of penalty petitions, with multiple penalties having been awarded in the Findings and Awards.

8) Applicant has also filed a Petition to Correct Clerical Error which will be handled as an additional Petition for Reconsideration, with Applicant claiming error in failure to award attorney's fees on the award of penalties.

9) Applicant's contentions will be considered first and then Defendant's contentions will be considered.

III.
LEGAL ARGUMENTS

1. APPLICANT ALLEGES IN THE PETITION FOR CORRECTION OF CLERICAL ERROR THAT ATTORNEY'S FEES SHOULD HAVE BEEN AWARDED ON THE AWARD OF PENALTIES

Applicant is correct in her assertion. It was an oversight by this Judge to not award attorney's fees on the award of penalties. It was intended that Applicant's attorney be awarded an attorney's fee of 15% of the penalties awarded to Applicant in both ADJ8833063 and ADJ8864536. It is noted

that Defendant's Petition for Reconsideration does not claim any error in the award of penalties and therefore these awards of penalties.

It is requested that the Board GRANT reconsideration and issue an additional Finding awarding Applicant's attorney an attorney's fee of 15% of the penalties awarded in ADJ8833063 and ADJ8864536.

2. APPLICANT ALLEGES IT WAS ERROR TO NOT ADDRESS AND/OR AWARD A 100% TOTAL PERMANENT DISABILITY DUE TO THE VOCATIONAL EVIDENCE RELATED TO APPLICANT'S HEADACHES

As to the headaches, a claim for injury resulting in headaches was made in ADJ8864536 (Claim #2), the previously decided ADJ10120548 (claim #3) and in the lately filed ADJ15824387 (claim #4).

In ADJ8864536 Dr. Shen Wang, M.D., examined Applicant for the headache complaints and issued a neurological report dated 01/14/2019 and identified impairment using Table 13-11, Class 1, of 7% WPI before apportionment for non-industrial pre-existing factors and before apportionment amongst the various claims. The overall permanent disability for headaches before apportionment rated as follows: 13.01 – 07[06]09 – 322(G) – 11 – 13%. There was a 10% apportionment to pre-existing migraines which reduced the industrial disability to 13%. There was then apportionment amongst the injuries with 66.6% of the disability to this CT (claim #2) and 33.3% to the last CT claim (claim #4). Therefore, there was permanent disability of 8% for headaches in ADJ8864536 and permanent disability for headaches of 4% in ADJ15824387.

There was expert vocational evidence offered by Applicant determining that Applicant was totally permanently disabled due to headaches. There is an Additional Finding (Finding I at page 11) which holds that the reports and opinions of the vocational experts do not rebut the permanent disability rating schedule (PDRS). The Opinion on Decision commences with this discussion, which indicates at the outset that the reports and opinions of Scott Simon are not substantial evidence. The opinions of Mr. Simon are based on erroneous work restrictions, and subsequent reporting that indicate that a differentiation in the labor market is not really possible given the set of facts. There is also no discussion by Mr. Simon as to the medical apportionment between the multiple cumulative trauma claims. As such, it is determined that the reports are not substantial evidence and Applicant has not met her burden of proof that the PDRS has been rebutted.

Applicant apparently wants a separate discussion applying the reports of Mr. Simon as to the headaches. Such a discussion is not needed. It is impermissible to find parts of the reports as substantial and other parts not substantial. Either the reporting is valid on all points or it is not. I cannot pick and choose portions of the reporting. Here, the reporting and opinions of Mr. Simon fail for a lack of any discussion as to the medical apportionment, and therefore the opinions as to the headaches cannot be relied upon.

Further, to address Applicant's specific concerns now, it is noted that the headaches are couched in an "if" presentation: Mr. Simon testified in his deposition that there were NO work restrictions for the headaches, but when Applicant were to get a severe headache, Applicant MAY need to call

in sick or leave early, which MAY be 2-4 times per month. This was completely speculative. Applicant does not always have headaches and the headaches are not always severe. And even in the face of a severe headache Applicant MAY need to call in sick or leave early. All of this is speculative and may never occur.

In essence: Applicant aims to pit this vocational opinion of 100% total permanent disability on headaches which are subject to no work restrictions, headaches which may or may not occur, which may or may not be severe, where Applicant may or may not need to call in sick or leave early, where apportionment for the headaches between injury #2 and injury #4 is not addressed, all versus medical findings of 8% permanent disability for headaches in claim #2 and 4% permanent disability for headaches in claim #4 – the weight is in favor of the medical evidence. The reports of Mr. Simon were determined to not constitute substantial evidence due to an error in the consideration of work restrictions and failure to address apportionment, and even if found to constitute substantial evidence would not be persuasive on the opinions with the headaches for the reasons stated herein.

There is no error in not awarding Applicant 100% total permanent disability due to a complaint of headaches, based on vocational evidence.

3. <u>DEFENDANT ALLEGES IT WAS ERROR TO NOT GRANT DEFENDANT A 15% REDUCTION IN THE AWARD OF PERMANENT DISABILITY BASED ON LABOR CODE SECTION 4658(d)(3)(A)</u>

Labor Code section 4658(d)(3)(A) provides:

> If, within 60 days of a disability becoming permanent and stationary, an employer offers the injured employee regular work, modified work, or alternative work, **<u>in the form and manner prescribed by the administrative director,</u>** for a period of at least 12 months, and regardless of whether the injured employee accepts or rejects the offer, each disability payment remaining to be paid to the injured employee from the date of the offer was made shall be paid in accordance with paragraph (1) and decreased by 15 percent. [emphasis added]

To begin, a review of the issues submitted for decision does not reflect that Applicant demanded the 15% increase nor is there evidence that Defendant raised the issue of entitlement to a 15% decrease. If Defendant was making such a claim, Defendant would have the burden of proof. Towards that end, Defendant would need to comply with Regulation 10117 to establish compliance with the requirement of "in the form and manner prescribed by the administrative director" and provide actual evidence of an offer and also that the employer had 50 or more employees at the time of Applicant's injury.

Here, a review of the exhibits shows no evidence offered by Defendant of the number of employees on the date of injury, and no evidence of a written offer as required. Such evidence would be necessary as the DATE of the offer would be a threshold requirement for entitlement to the decrease as it would be necessary to determine if the offer timely made and what is the date of the

offer so that we know when to begin to decrease the payment. Here, not only did Defendant not raise the issue until Reconsideration, but Defendant also offered no evidence on the issue.

As neither side raised the issue nor offered evidence on the issue, this Judge awarded permanent disability without increase or reduction. Said award is not in error.

4. **DEFENDANT ALLEGES IT WAS ERROR TO AWARD TEMPORARY DISABILITY IN ADJ8833063 AS THE AWARD EXTENDS MORE THAN 5 YEARS BEYOND THE DATE OF INJURY**

The date of injury in ADJ8833063 is 07/01/2001 – 12/01/2010. For this date of injury, there is a "cap" on the payment of temporary disability pursuant to Labor Code section 4656(c)(2): aggregate disability payments for a single injury occurring on or after January 1, 2008, causing temporary disability shall not extend for more than 104 compensable weeks within a period of five years from the date of injury.

In this case, temporary disability was awarded for the period 10/12/2011 – 11/14/2011 and from 12/07/2011 - 12/19/2011, as she was recovering from carpal tunnel release surgeries. Applicant was released to modified work following each surgery but there was no evidence offered as to whether or not modified work was actually offered or accepted. As such, there was medical evidence of a release to modified work which resulted in additional **potential** periods of temporary disability of: 11/14/2011 to 12/07/2011, and from 12/20/2011 – 03/05/2012 if no modified work was offered by the employer. The Findings reflect the "if no modified work was offered by the employer for this period" language for the parties to informally calculate the amounts due.

Applicant was also deemed temporarily disabled on a psychiatric basis commencing 03/02/2015 due to chronic pain by Dr. Sidle. Dr. Sidle deemed Applicant to be permanent and stationary on 10/02/2019.

Applicant was awarded additional temporary disability for the period 03/02/2015 to 10/02/2019 subject to the 104-week cap.

Defendant asserts that this award extends beyond the 5-year period and Defendant is correct in the assertion. While this Judge recognized that there was a limit to the award of the 104-week period, this Judge should ALSO have made it clear that there an additional limitation of 5-years from the date of injury. To the extent that the 104-weeks had not been exhausted by 03/05/2012, any additional temporary disability is legally limited to the 5-year cap by Labor Code section 4656(c)(2).

It is requested that the Board GRANT reconsideration for the purpose of amending Finding 13 in ADJ8833063 to more correctly read: "Applicant is awarded additional temporary disability for the period 03/02/2015 through 12/02/2019 per Dr. Sidle subject to the statutory limitations in Labor Code section 4656(c)(2);" - or other similar language as the Board deems appropriate.

5. **DEFENDANT ALLEGES IT WAS ERROR TO AWARD TEMPORARY DISABILITY IN ADJ8864536 AS THERE IS NO MEDICAL EVIDENCE TO SUPPORT THE AWARD**

ADJ8864536 is the cumulative trauma period from 07/01/2001 to 12/26/2012 involving the neck, bilateral shoulders, right thumb, headaches and psyche.

Applicant sought temporary disability in this claim and was awarded temporary disability from the last day of work through 10/02/2019 subject to the cap. There is also a limitation against duplicate payments in ADJ8833063.

Defendant alleges there is no medical evidence to support such an award. However, there are multiple reports and medical evaluators who support such an award as clearly indicated in the Findings. Specifically, Dr. Anderson opined that Applicant was NOT working her usual and customary duties on her last day of work but was rather on limited duties, and he also confirmed that Applicant's condition deteriorated (in part due to a lack of medical treatment) throughout 2013 including a period BEFORE her last day of work. Dr. Anderson confirmed total temporary disability in his report of 05/26/2014 **and made the determination retroactive throughout 2013 as he accepts the TTD status based on the worsening condition.** [see Joint Exhibit 3]. As such, the temporary disability period began with the last day of work 05/18/2013. Dr. Butcher confirmed a total temporary disability status beginning with his reporting of 10/08/2014 [see Applicant's Exhibits 23 – 33] through the date of his deposition on 07/12/2016 [see Applicant's Exhibit 22] wherein he testifies that Applicant is now permanent and stationary **orthopedically**, and then Dr. Butcher returned Applicant to total temporary disability status in his reporting of 09/22/2016 [see Applicant's Exhibit 21], extending that temporary disability through 07/27/2017 [see Applicant's Exhibit 17]. Moreover, Dr. Sidle indicates Applicant was totally temporarily disabled on a psychiatric basis in his initial report of 03/02/2015 [see Joint Exhibit 1] and does not deem Applicant to be permanent and stationary until 10/02/2019 [see Applicant's Exhibit 44].

As such there is ample substantial medical evidence to support the award of temporary disability.

6. **DEFENDANT ALLEGES IT WAS ERROR TO AWARD TEMPORARY DISABILITY WITHOUT ALLOWING A CREDIT FOR PAYMENTS OF STATE DISABILITY INDEMNITY (SDI) FROM THE EMPLOYMENT DEVELOPMENT DEPARTMENT (EDD)**

Defendant is correct in the assertion. The liability for temporary disability awarded herein in not only subject to credit for payments made by Defendant, and also subject to the 104-week cap and the 5-year cap, but Defendant is also entitled to a credit for the payments of SDI made by EDD, subject to proof. It was error to not specify that Defendant is entitled to such credit.

It is requested that the Board GRANT reconsideration to modify Findings No. 14 in ADJ8833063 to read: "Defendant is entitled to a credit for all payments of temporary disability made during these periods of temporary disability enumerated herein-above, and is also entitled to a credit for payments of State Disability Indemnity by the Employment Development Department, subject to

proof, with the parties to informally adjust the amounts with WCAB jurisdiction reserved;" – or other similar language as deemed appropriate by the Board.

It is requested that the Board GRANT reconsideration to modify Findings No. 14 in ADJ8864536 to read: "Defendant is entitled to a credit for all payments of temporary disability made during these periods of temporary disability enumerated herein-above, and is also entitled to a credit for payments of State Disability Indemnity by the Employment Development Department, subject to proof, with the parties to informally adjust the amounts with WCAB jurisdiction reserved;" – or other similar language as deemed appropriate by the Board.

7. **DEFENDANT ALLEGES THAT BY FINDING AN ENTITLEMENT TO TEMPORARY DISABILITY IN ADJ15824387 THAT THIS JUDGE IS ATTEMPTING TO RE-DECIDE THE INJURY IN ADJ10120548 IN WHICH NO PSYCHIATRIC INJURY WAS FOUND**

A little history: Applicant filed a claim of injury on a psychiatric basis in ADJ10120548 and received a "take-nothing" following trial on the merits. The trial was held on 01/10/2018. Applicant's claim of psychiatric injury was SPECIFICALLY due to alleged acts of harassment by her supervisor specifically involving a large bowl of salsa, a wet blouse and allegedly lewd/suggestive acts by said male supervisor, and also involved warnings/write-ups and termination.

There were ALSO claims of psychiatric injury in ADJ8833063 and ADJ8864536 and those claims were based on anxiety and depression as part of the pain disorder from the physical injuries. Those claims WERE found compensable. See the Findings and Order dated 03/20/2018.

Applicant then attempted to "amend" ADJ10120548 to include headaches, but as ADJ10120548 had already been adjudicated with a determination of no injury, Applicant was instructed to file a new application covering the same date of injury, but a different body part based on a **different mechanism of injury**. Applicant did file such an Application, to wit, ADJ15824387.

In the Findings and Award/Order of 07/16/2023, injury to the psyche is found in ADJ15824387. This is a different and distinct psychiatric injury than what was alleged in ADJ10120548. Specifically, Dr. Sidle finds psychiatric injury due to chronic pain. There is nothing in the determinations in ADJ15824387 which consider the allegations in ADJ10120548 or which re-litigate or re-open the issues. That Applicant received a "take-nothing" in ADJ10120548 due to allegations of harassment does NOT bar her from successfully raising a claim of injury to her psyche based on chronic pain. Such an injury has already been found and is res judicata in ADJ8833063 and ADJ8864536 with the period of injurious exposure simply being extended by the evaluators through the last day of work. Given the broken periods of employment with the various surgeries Applicant has undergone, case law such as Western Growers would prohibit the simple extension of the date of injury in ADJ8833063 and/or ADJ8864536 with the law requiring the injury to be deemed a new injury. This is what has been done herein and there is no bar against it.

Defendant further alleges that Applicant made no claim of injury to the psyche in ADJ15824387. Defendant is correct in the assertion. However, there is medical evidence of injury pursuant to Dr. Sidle, and while the Application was never formally amended the Findings can conform to the evidence. While there is a finding of injury, as there is medical evidence to support such a determination and there is a rating provided based on that medical evidence, it is noted in the Findings and Award that there is no award as to that body part given the changes in the law and psychiatric permanent disability no longer being subject to an award. There is no award of medical care for the psyche in ADJ15824387 and medical care is already awarded for the psyche in ADJ8833063 and ADJ8864536.

As to the evidence from Dr. Sidle, Defendant alleges that the prior evidence which was not substantial to support an Award in ADJ10120548 is now substantial to support an Award in ADJ15824387. This is a misstatement of the facts and counsel is to be admonished from misleading the Board. The trial in ADJ10120548 was held on 01/10/2018. Any medical reporting from Dr. Sidle obviously existed prior to that date. There was then ADDITIONAL reporting from Dr. Sidle including Applicant's Exhibit 44 dated 10/02/2019 and Applicant's Exhibit 60 dated 12/26/2019. It is the latter report in which Dr. Sidle identifies and confirms that the chronic pain extends through the last date of work and apportions 15% of the impairment to that new period through 05/18/2013.

While Applicant did not claim injury to the psyche in ADJ15824387, it is not error for this Judge to determine such an injury exists based on the substantial medical evidence. Such a finding is not prejudicial to Defendant in that no permanent disability or other benefits are awarded on a psychiatric basis in ADJ15824387.

It is recommended that reconsideration be denied as to this allegation.

8. DEFENDANT ALLEGES THAT ADJ15824387 WAS FILED BEYOND THE STATUTE OF LIMITATIONS

ADJ15824387 was filed on 02/22/2022.

Defendant alleges Applicant first received notice of a cumulative trauma for headaches via reporting from Dr. Wang dated 01/14/2019. Said report is Joint Exhibit 6. In said report, Dr. Wang indicates:

- The first cumulative trauma claim between July 1, 2001 and December 1, 2010 has to do with the patient's elbows, forearms, wrists and carpal tunnel syndrome bilaterally.

- The second cumulative trauma claim from July 1, 2001 through December 26, 2012 has to do with the patient's cervical, upper thoracic, trapezial, and scapular pain and the pain the shoulders bilaterally due to cumulative trauma injury at work.

- The last cumulative trauma was from January 10, 2013 through May 18, 2013, which is a psychiatric claim and addressed by Dr. Sidle in his QME report already.

- I do not believe the patient's headaches are in any way related to the to the patient's original first cumulative trauma….

- I believe the patient's headaches are part of the patient's cumulative trauma claim of July 1, 2011 [sic] through December 26, 2012.

- For the January 10, 2013 through May 18, 2013 psychiatric claim, there is definite aggravation of the patient's headaches….

It appears the first notice of a cumulative trauma resulting in headaches was therefore 01/14/2019. Applicant was receiving treatment for the headaches and continues with such treatment.

Applicant continues to receive treatment for the headaches. Defendant denies this contention. Defendant is incorrect in the assertion. Dr. Wang indicates regular treatment over a three-year period with Dr. Singh. Further, Applicant testified at trial that she has ongoing treatment with Dr. Lo who is a newer doctor for her. [MOH/SOE 11/15/22, 6:24-27; 8:16; 9:7-21] She also testified that she takes medication for the headaches. [MOH/SOE 11/15/22, 3:19-20].

There is no evidence that Defendant denied the claim of injury for headaches through 05/18/2013 after receiving notice from Dr. Wang. There is no evidence that Defendant issued any notices to Applicant after receiving notice of the injury resulting in headaches through 05/18/2013. Applicant has continued to receive treatment for headaches in ADJ8864536. Based on the totality of the evidence, there is no basis to bar ADJ15824387 based on the Statute of Limitations.

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IV.
RECOMMENDATION

The Petition for Reconsideration should be:

1) GRANTED for the limited purposes of awarding attorney's fees to Ms. Peterson on the penalties awarded;

2) GRANTED for the purpose of amending Finding 13 in ADJ8833063 to more correctly read: "Applicant is awarded additional temporary disability for the period 03/02/2015 through 12/02/2019 per Dr. Sidle subject to the statutory limitations in Labor Code section 4656(c)(2);" - or other similar language as the Board deems appropriate.

3) GRANTED to modify Findings No. 14 in ADJ8833063 to read: "Defendant is entitled to a credit for all payments of temporary disability made during these periods of temporary disability enumerated herein-above, and is also entitled to a credit for payments of State Disability Indemnity by the Employment Development Department, subject to proof, with the parties to informally adjust the amounts with WCAB jurisdiction reserved;" – or other similar language as deemed appropriate by the Board.

4) GRANTED to modify Findings No. 14 in ADJ8864536 to read: "Defendant is entitled to a credit for all payments of temporary disability made during these periods of temporary disability enumerated herein-above, and is also entitled to a credit for payments of State Disability Indemnity by the Employment Development Department, subject to proof, with the parties to informally adjust the amounts with WCAB jurisdiction reserved;" – or other similar language as deemed appropriate by the Board.

….

DATE: 08/25/2023

ADORALIDA PADILLA
WORKERS' COMPENSATION JUDGE