

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

**SAMREEN RIAZ, *Applicant***

**vs.**

**FAMILY HEALTHCARE NETWORK; STAR INSURANCE COMPANY,  
adjusted by ILLINOIS MIDWEST INSURANCE AGENCY, *Defendants***

**Adjudication Number: ADJ13458767  
Fresno District Office**

**OPINION AND ORDER  
DENYING PETITIONS FOR  
RECONSIDERATION AND  
DISQUALIFICATION**

While still represented by counsel, applicant filed two Petitions for Reconsideration and Disqualification on April 5, 2022. On April 8, 2022, applicant filed a third Petition for Reconsideration and Disqualification and a dismissal of her attorney. On May 16, 2022, applicant filed a request to file supplemental pleading. We accept that request pursuant to our authority. (Cal. Code Regs., tit. 8, § 10964.) We have considered the allegations of the Petitions for Reconsideration and Disqualification 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, and for the reasons stated below, we will deny reconsideration and applicant's request for disqualification of the WCJ.

Preliminarily, we note that a petition is generally considered denied by operation of law if the Appeals Board does not grant the petition within 60 days after it is filed. (Lab. Code, § 5909.) However, we believe that "it is a fundamental principle of due process that a party may not be deprived of a substantial right without notice ...." (*Shiple v. Workers' Comp. Appeals Bd.* (1992) 7 Cal.App.4th 1104, 1108 [57 Cal.Comp.Cases 493].) In *Shiple*, the Appeals Board denied the applicant's petition for reconsideration because it had not acted on the petition within the statutory time limits of Labor Code section 5909. This occurred because the Appeals Board had misplaced

the file, through no fault of the parties. The Court of Appeal reversed the Appeals Board's decision holding that the time to act on applicant's petition was tolled during the period that the file was misplaced. (*Shipley, supra*, 7 Cal.App.4th at p. 1108.) Like the Court in *Shipley*, "we are not convinced that the burden of the system's inadequacies should fall on [a party]." (*Shipley, supra*, 7 Cal.App.4th at p. 1108.)

In this case, the Appeals Board failed to act on applicant's petitions within 60 days of their filing on April 5, 2022 and April 8, 2022, through no fault of applicant. Therefore, considering that the Appeals Board's failure to act on the petition was in error, we find that our time to act was tolled.

Nevertheless, for the reasons stated in the WCJ's Report, which we adopt and incorporate, and for the reasons stated below, we deny applicant's request for reconsideration and disqualification.

Labor Code section 5311 provides that a party may seek to disqualify a WCJ upon any one or more of the grounds specified in Code of Civil Procedure section 641. (Lab. Code, § 5311; see also Code Civ. Proc., § 641.) Among the grounds for disqualification under section 641 are that the WCJ has "formed or expressed an unqualified opinion or belief as to the merits of the action" (Code Civ. Proc., § 641(f)) or that the WCJ has demonstrated "[t]he existence of a state of mind ... evincing enmity against or bias toward either party" (Code Civ. Proc., § 641(g)).

Under WCAB Rule 10960, proceedings to disqualify a WCJ "shall be initiated by the filing of a petition for disqualification supported by an affidavit or declaration under penalty of perjury stating in detail *facts* establishing one or more of the grounds for disqualification ... ." (Cal. Code Regs., tit. 8, § 10960, italics added.) It has long been recognized that "[t]he allegations in a statement charging bias and prejudice of a judge must set forth specifically the *facts* on which the charge is predicated," that "[a] *statement containing nothing but conclusions and setting forth no facts* constituting a ground for disqualification may be ignored," and that "[w]here no *facts* are set forth in the statement *there is no issue of fact to be determined.*" (*Mackie v. Dyer* (1957) 154 Cal.App.2d 395, 399, italics added.)

Furthermore, even if detailed and verified allegations of fact have been made, it is settled law that a WCJ is not subject to disqualification under section 641(f) if, prior to rendering a decision, the WCJ expresses an opinion regarding a legal or factual issue but the petitioner fails to show that this opinion is a fixed one that could not be changed upon the production of evidence

and the presentation of arguments at or after further hearing. (*Taylor v. Industrial Acc. Com. (Thomas)* (1940) 38 Cal.App.2d 75, 79-80 [5 Cal.Comp.Cases 61].) Additionally, even if the WCJ expresses an unqualified opinion on the merits, the WCJ is not subject to disqualification under section 641(f) if that opinion is “based upon the evidence then before [the WCJ] and upon the [WCJ’s] conception of the law as applied to such evidence.” (*Id.*; cf. *Kreling v. Superior Court* (1944) 25 Cal.2d 305, 312 [“It is [a judge’s] duty to consider and pass upon the evidence produced before him, and when the evidence is in conflict, to resolve that conflict in favor of the party whose evidence outweighs that of the opposing party.”].)

Also, it is “well settled ... that the expressions of opinion uttered by a judge, in what he conceives to be a discharge of his official duties, are not evidence of bias or prejudice” under section 641(g) (*Kreling, supra*, 25 Cal.2d at pp. 310-311; accord: *Mackie, supra*, 154 Cal.App.2d at p. 400) and that “[e]rroneous rulings against a litigant, even when numerous and continuous, form no ground for a charge of bias or prejudice, especially when they are subject to review” (*McEwen v. Occidental Life Ins. Co.* (1916) 172 Cal. 6, 11; accord: *Mackie, supra*, 154 Cal.App.2d at p. 400.) Similarly, “when the state of mind of the trial judge appears to be adverse to one of the parties but is based upon actual observance of the witnesses and the evidence given during the trial of an action, it does not amount to that prejudice against a litigant which disqualifies” the judge under section 641(g). (*Kreling, supra*, 25 Cal.2d at p. 312; see also *Moulton Niguel Water Dist. v. Colombo* (2003) 111 Cal.App.4th 1210, 1219 [“When making a ruling, a judge interprets the evidence, weighs credibility, and makes findings. In doing so, the judge necessarily makes and expresses determinations in favor of and against parties. How could it be otherwise? We will not hold that every statement a judge makes to explain his or her reasons for ruling against a party constitutes evidence of judicial bias.”].)

Under no circumstances may a party’s unilateral and subjective perception of bias afford a basis for disqualification. (*Haas v. County of San Bernardino* (2002) 27 Cal.4th 1017, 1034; *Robbins v. Sharp Healthcare* (2006) 71 Cal.Comp.Cases 1291, 1310-1311 (Significant Panel Decision).)

Here, as discussed in the WCJ’s report, the petition for disqualification does not set forth facts, declared under penalty of perjury, that are sufficient to establish disqualification pursuant to Labor Code section 5311, WCAB Rule 10960, and Code of Civil Procedure section 641(f) and/or (g). Accordingly, the petitions will be denied.

For the foregoing reasons,

**IT IS ORDERED** that the Petitions for Reconsideration and Disqualification are **DENIED**.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ CRAIG SNELLINGS, COMMISSIONER**

**I CONCUR,**

**/s/ JOSÉ H. RAZO, COMMISSIONER**

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



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

**MAY 25, 2023**

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

**SAMREEN RIAZ  
GOLDBERG & IBARRA  
LAW OFFICES OF BRADFORD & BARTHEL**

**PAG/es**

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 PETITIONS FOR RECONSIDERATION AND DISQUALIFICATION**

**I**  
**INTRODUCTION**

Applicant, born [], while employed on 9/24/2019, as a dentist, by Family Healthcare Network, claims to have sustained injury arising out of and in the course of employment to her psych / stress.

The issues of the applicant's claimed injury AOE/COE and whether the QME reporting of Dr. Micah Hoffman constitutes substantial medical evidence proceeded to trial on January 19, 2022. On March 23, 2022, the undersigned found that Dr. Hoffman's QME report constitutes substantial medical evidence and that Applicant did not sustain injury arising out of and occurring in the course of employment to her psych / stress. It was Ordered that the applicant take nothing as a result of her claimed injury.

On April 8, 2022, Applicant filed and served a timely, verified, Petition for Reconsideration/Disqualification disputing the Findings and Order of the Court and alleging actual bias or the appearance of bias as shown through the use of vocabulary and symbols reflecting bias and discrimination towards the immigrant plaintiff. The Petition consists of 196 pages and contains exhibits not previously admitted into evidence. No request to exceed the page limitation has been received and no allegations have been made that any of the evidence is newly discovered and could not, with reasonable diligence, have been previously discovered. Nevertheless, the Court is responding to the merits of the Petition.

Defendant has filed a timely Answer to Petition for Reconsideration.

**II**  
**FACTS**

On June 2, 2020, the applicant underwent psychiatric evaluation with psychiatric testing performed by QME, Micah Hoffman, M.D. The doctor reviewed the complaints and allegations made by the applicant as set forth in multiple e-mails. (Exhibit A, Dr. Hoffman report dated 6/29/20, pgs. 7 – 42). The doctor also reviewed the applicant's prior medical records and conducted psychiatric testing. (*Id.* at pgs. 42 – 54; 57 – 61.) Dr. Hoffman indicated that the applicant meets diagnostic criteria for an unspecified psychotic disorder with long-standing paranoia and delusions. (*Id.* At pg. 67.) In discussing causation, the doctor stated, "Within reasonable medical

probability, the actual events of employment were not predominant (<50%) to all the causes combined to have produced a psychiatric injury. This injury does not meet requirements under section 3208.3 for predominant cause. **100% of the psychiatric injury in this case can be attributed to the applicant's unfortunate chronic psychotic illness, which is not industrial in nature in any way.**" (*Id.* at pg. 68.)

Dr. Hoffman's deposition was taken on June 9, 2021, wherein the doctor further explained the basis for his opinions. He noted that the e-mails submitted by the applicant were disjointed and filled with the writings of someone with a psychotic illness who is interpreting all of these actions as being done against her in a way that's just not consistent with reality. (Exhibit B, Dr. Hoffman's deposition dated 6/9/21 at pg. 10.) The doctor also noted that during the evaluation, the applicant presented as extraordinarily guarded and paranoid. (*Id.* at 10.)

The doctor administered various psychiatric tests which showed no or minimal anxiety or depression. (Exhibit A, *supra*, pgs 57 – 59.) The results of the Minnesota Multiphasic Personality Inventory showed that the applicant views the world as a threatening place, sees herself as having been unjustly blamed for others' problems, and feels that she is getting a raw deal out of life. (*Id.*, pg. 59.) It also showed that she tends to view the world in a highly negative manner and usually develops a worst-case scenario to explain events affecting her. She tends to worry to excess and interprets even neutral events as problematic. (*Id.* at pg. 60.)

### III DISCUSSION

In her Petition for Disqualification, the applicant alleges that the undersigned showed bias or the appearance of bias in preparing the Findings of Fact, Order and Opinion on Decision as shown by the vocabulary and symbols used and that the name "Debra Sandoval" is controversial and is associated with organized stalking and privacy invasion. (Applicant's Petition for Reconsideration/Disqualification, dated 4/2/22, pg. 3.)

The applicant does not provide any evidence or even credible arguments to support her allegations. It appears that most of her allegations consist of the undersigned not finding in her favor as evidence of bias and discrimination.

Many of the allegations applicant makes support Dr. Hoffman's diagnosis of a psychotic disorder with paranoia and delusions. For example, the applicant notes the first name of the assigned judge is the same as a person named "Deborah Lobo" allegedly discussed by the applicant

in her home in relation to terrorist activities in Pakistan or covert stalking crimes at a Medi-care hospital. (*Id.* at pg. 4.) Applicant claims that the undersigned was specifically assigned in order to intimidate, show privacy intrusion and the presence of covert organized criminal activity and bias at the very top level of the WCAB. (*Id.* at 5.) Applicant also claims that by referring to defendant's attorney as "Attorneys for Defense" below the caption of the Findings of Fact, Order and Opinion on Decision somehow shows bias and discrimination due to her national origin, immigrant status and faith by suggesting that Applicant's case is against the Department of Defense. (*Id.* at pg. 5.) Similarly, Applicant alleges that the use of asterisks below the attorney names on the Findings of Fact, Order and Opinion on Decision was meant to intimidate and discriminate against Applicant because they resemble snowflakes which represent I.C.E (U. S. Immigration and Customs Enforcement). (*Id.* at pg. 9.)

The majority of the applicant's contentions imply that the undersigned erred by not accepting as truth not only all of applicant's statements but also her interpretation as to the meaning and motivation behind those statements. For example, the applicant claims that her employer intentionally utilized the words "flasher notes" in reference to notes needing to be locked in order to humiliate and harass her. (*Id.* at pg. 10.) The applicant reiterates all of the complaints that she has made against her employer which were contained within the e-mails reviewed by Dr. Hoffman in his QME report. (*Id.* at pgs. 10 – 28.) Many of Applicant's statements lack credibility on their face such as the examples cited above, but also some lack credibility due to a direct conflict in the evidence. For example, Applicant states that her exemplary performance evaluations led to salary increases through the same year of her employment. (*Id.* at pg. 10, #9.) However, the applicant's personnel file only contains one performance evaluation dated 8/2/19, wherein she was given an overall score of 1.57, which is between 1 – Developing and 2 – Competent. (Exhibit C, Personnel file, dated 10/15/19, pg. 26.)

Applicant contends that it was error to rely upon Dr. Hoffman's QME report. 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).)

Dr. Hoffman states in his QME report that within reasonable medical probability, the actual events of employment were not predominant (<50%) to all the causes combined to have produced a psychiatric injury. (Exhibit A, *supra*, pg. 68.)

Dr. Hoffman's report sets forth in detail the writings submitted by the applicant describing the incidences she claimed were examples of harassment. He also reviewed the reports of her prior psychiatric treating physicians. His report indicates that he spent 1.5 hours in face-to-face interview with the applicant. (Exhibit A, *supra*, pg. 6.) Dr. Hoffman also relied upon psychiatric diagnostic testing in reaching his diagnosis and conclusions regarding causation. (Exhibit A, *supra*, pgs. 57 – 60.)

In Dr. Hoffman's deposition, he further explained that his opinions were supported by the documents submitted by the applicant that were filled with the writings of someone who has a psychotic illness and is interpreting that all the actions described were being done against her in a way that is not consistent with reality. (Exhibit B, *supra*, pg. 10.)

Dr. Hoffman's conclusions are well reasoned, supported by the doctor's examination and diagnostic testing, constitute substantial medical evidence and were relied upon by the court.

At no time during my involvement as the WCJ assigned to this action have I acted with improper or illegal purpose. At no time have I discharged my judicial duties with bias or prejudice against any party, and I so declare under penalty of perjury, under the laws of the State of California.

#### IV

#### RECOMMENDATION

It is recommended that the Petition for Reconsideration / Disqualification be denied.

Respectfully submitted,

/s/ Debra Sandoval 4/29/2022

**DEBRA SANDOVAL**

Workers' Compensation Judge