WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA

BARBARA BRAND, *Applicant*

vs.

COUNTY OF LOS ANGELES,
permissibly self-insured, administered by SEDGWICK, *Defendants*

Adjudication Number: ADJ14588185
Van Nuys District Office

OPINION AND ORDER GRANTING PETITION FOR RECONSIDERATION AND DECISION AFTER RECONSIDERATION

Applicant seeks reconsideration of the September 13, 2024 Findings of Fact and Order (F&O), wherein the workers' compensation administrative law judge (WCJ) found that applicant, while employed as a building permit technician from August 5, 2019 to August 14, 2020, claims to have sustained industrial injury to her psyche, stomach, and in the form of headaches. The WCJ found that applicant did not sustain her burden of establishing injury arising out of and in the course of employment (AOE/COE), and ordered that applicant take nothing further by way of her claim.

Applicant contends that the WCJ's decision was conclusory and not supported by the facts and evidence.

We have received an Answer from defendant. The WCJ prepared a Report and Recommendation on Petition for Reconsideration (Report), recommending that the Petition be denied.

We have considered the allegations of the Petition 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 discussed below, we will rescind the F&O and return this matter to the trial level for further proceedings.

FACTS

Applicant claimed injury to her psyche, stomach and in the form of headaches while employed as a building permit technician by defendant County of Los Angeles from August 5, 2019 to August 14, 2020. Defendant denies all liability for the claimed injury.

The parties selected Mara Tansman, Pys.D., to act as the Qualified Medical Evaluator (QME) in psychology.

On December 6, 2023, the parties proceeded to trial, and framed issues including injury AOE/COE. (Minutes of Hearing, dated December 6, 2023, at p. 2:15.)

On June 4, 2024, the WCJ heard testimony from applicant and from defense witnesses Hugo Acevedo, Tina Thomspon, and Teri Lutz. (Further Minutes of Hearing and Summary of Evidence, dated June 4, 2024, at p. 2:16.) The WCJ ordered the matter submitted for decision as of June 18, 2024.

On September 13, 2024, the WCJ issued his F&O, determining in relevant part that "applicant failed to establish there was injury arising out of and in the course of the employment causing injury to the Applicant's psyche, stomach, and headaches." (Finding of Fact No. 7.) The WCJ ordered that applicant taken nothing further by way of her claim. (Order No. 1.) The WCJ's Opinion on Decision states that applicant's testimony was "non-credible." (Opinion on Decision, at p1.)

Applicant's Petition is captioned a "Petition for Reconsideration/Removal," and asserts irreparable harm arising out of the WCJ's lack of specificity in the F&O and Opinion on Decision. (Petition, at p. 1:21.) The Petition contends applicant's trial testimony is supported in the evidentiary record and by the QME reporting and defense witness testimony. (*Id.* at p. 2:15.)

Defendant's Answer asserts that applicant failed to present "objective evidence" in support of her claimed psychiatric stressors, and that Labor Code[1] section 3202 "does not make applicant's misperceptions compensable." (Answer, at p. 13:22.)

The WCJ's Report, in relevant part, states that following his observations of the applicant's in-person testimony, that applicant "was simply not credible and the undersigned made a determination and finding that the applicant was not credible." (Report, at p. 4.)

[1] All further references are to the Labor Code unless otherwise noted.

DISCUSSION

I.

Former section 5909 provided that a petition for reconsideration was deemed denied unless the Appeals Board acted on the petition within 60 days from the date of filing. (Lab. Code, § 5909.) Effective July 2, 2024, section 5909 was amended to state in relevant part that:

> (a) A petition for reconsideration is deemed to have been denied by the appeals board unless it is acted upon within 60 days from the date a trial judge transmits a case to the appeals board.
>
> (b)
>
> (1) When a trial judge transmits a case to the appeals board, the trial judge shall provide notice to the parties of the case and the appeals board.
>
> (2) For purposes of paragraph (1), service of the accompanying report, pursuant to subdivision (b) of Section 5900, shall constitute providing notice.

Under section 5909(a), the Appeals Board must act on a petition for reconsideration within 60 days of transmission of the case to the Appeals Board. Transmission is reflected in Events in the Electronic Adjudication Management System (EAMS). Specifically, in Case Events, under Event Description is the phrase "Sent to Recon" and under Additional Information is the phrase "The case is sent to the Recon board."

Here, according to Events, the case was transmitted to the Appeals Board on October 24, 2024, and 60 days from the date of transmission is December 23, 2024. This decision is issued by or on December 23, 2024, so that we have timely acted on the petition as required by Labor Code section 5909(a).

Section 5909(b)(1) requires that the parties and the Appeals Board be provided with notice of transmission of the case. Transmission of the case to the Appeals Board in EAMS provides notice to the Appeals Board. Thus, the requirement in subdivision (1) ensures that the parties are notified of the accurate date for the commencement of the 60-day period for the Appeals Board to act on a petition. Section 5909(b)(2) provides that service of the Report and Recommendation shall be notice of transmission.

Here, according to the proof of service for the Report and Recommendation by the workers' compensation administrative law judge, the Report was served on October 24, 2024, and the case was transmitted to the Appeals Board on October 24, 2024. Service of the Report and transmission

of the case to the Appeals Board occurred on the same day. Thus, we conclude that the parties were provided with the notice of transmission required by section 5909(b)(1) because service of the Report in compliance with section 5909(b)(2) provided them with actual notice as to the commencement of the 60-day period on October 24, 2024.

II.

We note at the outset that applicant has captioned the Petition as one seeking "Reconsideration/Removal." If a decision includes resolution of a "threshold" issue, then it is a "final" decision, whether or not all issues are resolved or there is an ultimate decision on the right to benefits. (*Aldi v. Carr, McClellan, Ingersoll, Thompson & Horn* (2006) 71 Cal.Comp.Cases 783, 784, fn. 2 (Appeals Board en banc).) A "final" order has been defined as one that either "determines any substantive right or liability of those involved in the case" or determines a "threshold" issue that is fundamental to the claim for benefits. (*Rymer v. Hagler* (1989) 211 Cal.App.3d 1171, 1180 [260 Cal.Rptr. 76]; *Safeway Stores, Inc. v. Workers' Comp. Appeals Bd.* (*Pointer*) (1980) 104 Cal.App.3d 528, 534-535 [45 Cal.Comp.Cases 410]; *Kaiser Foundation Hospitals v. Workers' Comp. Appeals Bd.* (*Kramer*) (1978) 82 Cal.App.3d 39, 45 [43 Cal.Comp.Cases 661]; *Maranian v. Workers' Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1070, 1075 [65 Cal.Comp.Cases 650].) Threshold issues include, but are not limited to, the following: injury arising out of and in the course of employment, jurisdiction, the existence of an employment relationship, and statute of limitations issues. (See *Capital Builders Hardware, Inc. v. Workers' Comp. Appeals Bd.* (*Gaona*) (2016) 5 Cal.App.5th 658, 662 [210 Cal. Rptr. 3d 101, 81 Cal. Comp. Cases 1122] (*Gaona*).)

Here, the F&O decides the issue of injury AOE/COE, which is a threshold issue fundamental to the claim for benefits. The WCJ's decision is thus a final order subject to reconsideration, rather than removal. (*Goana, supra*, 5 Cal.App.5th 658.) We admonish applicant's counsel Ronald J. Nolan for filing a petition for removal from what is clearly a final order and expect counsel to file appropriate pleadings in the future.

III.

Applicant's Petition further requests reassignment of this matter to a different trial judge. We treat applicant's request as one seeking disqualification of the WCJ pursuant to section 5311.

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].)[2] 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

[2] Overruled on other grounds in *Lumbermen's Mut. Cas. Co. v. Industrial Acc. Com.* (*Cacozza*) (1946) 29 Cal.2d 492, 499 [11 Cal.Comp.Cases 289].

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).)

Finally, WCAB Rule 10960 provides that when the WCJ and "the grounds for disqualification" are known, a petition for disqualification "shall be filed not more than 10 days after service of notice of hearing or after grounds for disqualification are known."

Here, applicant's Petition avers that "returning the matter back to the trial Judge will [not] prove beneficial if he has a preconceived opinion on lack of credibility of the applicant and a superior opinion of that of defense witnesses." (Petition, at p. 3:7.) However, the Petition does not comply with Rule 10960, because it does not state in detail facts establishing one or more of the grounds for disqualification … ." (Cal. Code Regs., tit. 8, § 10960, italics added.) Nor is the petition accompanied by an affidavit or declaration setting forth specifically the facts on which the charge is predicated. "Where no facts are set forth in the statement there is no issue of fact to be determined." (*Mackie v. Dyer, supra,* 154 Cal.App.2d 395, 399.) We therefore deny the Petition to the extent that it seeks to disqualify the WCJ.

IV.

Applicant alleges psychiatric injury due to a hostile work environment resulting in chronic anxiety and sequelae in the form of stomach discomfort and headaches. (Minutes of Hearing, dated December 6, 2023, at p. 2:4.)

Psychology QME Mara Tansman, Psy.D., evaluated applicant on December 29, 2020, and issued a comprehensive medical-legal report on January 30, 2021. Therein, the QME reviewed applicant's presenting history. Applicant reported that she worked for the County of Los Angeles Department of Public Works in Carson, California, from May, 2014 to August, 2019, after which applicant transferred to the Lancaster office. (Ex. 1, Report of Mara Tansman, Psy.D., dated January 26, 2021, at p. 9.) Applicant reported a variety of adverse conditions and interactions that accreted over time and ultimately resulted in her developing symptoms of anxiety. Applicant reported that as soon as she started at the Lancaster office, she experienced hostility from her coworkers, who excluded applicant from nearly all occasions, and dissuaded others from interacting with applicant. (*Id.* at pp. 11-12.) Applicant felt singled-out and experienced difficulty interacting with her coworkers. Applicant reported that a meeting was held with applicant's supervisor Mr. Elisad in which these difficulties were discussed, but applicant reports the supervisor ultimately chose to deescalate the situation. (*Id.* at p. 12.) Applicant felt that her coworkers treated her in a rude and condescending manner. Applicant further reported that in July 2020, her coworkers would avoid work that increasingly fell to applicant to complete and that applicant found the situation stressful. Applicant reported that it was at this time that she started feeling increasingly agitated and upset at work, and that "she would 'hold it together' until she arrived home and would cry and have difficulty sleeping." (*Id.* at p. 14.) Applicant stated that in July 2020, she received an email from a coworker in another office voicing displeasure with applicant's handling of a customer issue, and that the coworker copied applicant's supervisor with the email prior to confirming any information with applicant. (*Id.* at p. 15.) Applicant also reported that her attempts to raise the issue of her difficulties with her coworkers were ignored by her supervisor. (*Ibid*.) Applicant sought medical treatment for her symptoms of stress at Kaiser Permanente on August 19, 2020, and was released back to work with a restriction to working from home by treating physicians Dr. Malkhassian and Dr. Jindal. (*Id.* at p. 16.) Applicant nonetheless continued to experience difficulties in her emailed interactions with her coworkers and on the occasions where she needed to physically return to the office. (*Ibid*.) Applicant obtained

psychiatric treatment including psychotherapy through Dr. Ashikyan and was diagnosed with an Adjustment Disorder. (*Ibid*.)

In addition to reviewing applicant's presenting history, Dr. Tansman also reviewed the submitted medical record, obtained a detailed psychological history from applicant and administered various psychological testing modalities. (*Id.* at p. 18.) Dr. Tansman diagnosed an Anxiety Disorder with mild and chronic features, and opined that the predominant cause of applicant's psychological disability was a continuous injury from August, 2019 to August 17, 2020, due to "alleged hostile work environment she experienced while working at the Lancaster office at the LA County Department of Public Works." (*Id.* at p. 40.)

Dr. Tansman deferred to the trier-of-fact the question of whether "Ms. Brand's report is accurate and whether what Ms. Brand allegedly experienced is considered a hostile work environment." (*Ibid*.) However, Dr. Tansman also stated that she found applicant's history to be credible, and explained in detail her reasoning. Dr. Tansman noted that applicant "did not over or under-report her psychological symptoms on any of the psychological testing protocols." (*Id.* at p. 41.) Applicant "exhibited a stable demeanor throughout the evaluation and provided consistent, relevant and detailed information," and "did not display response patterns that were vague or contradictory, and she was engaged in the evaluation and willingly responded to everything requested of her." Applicant "showed no signs of exaggerated emotional symptoms over the course of a multi hour-long evaluation." (*Ibid*.) Dr. Tansman noted that "the mechanism of injury in this case (i.e. an alleged hostile work environment) is a psychosocial stressor that would cause concern and evoke symptoms of distress in most individuals and any reasonable employee." (*Ibid*.) Moreover, "the history Ms. Brand reported regarding the nature of the alleged hostile work environment on her psychological functioning is generally consistent with information provided in the medical records from Dr. Jindal and Dr. Malkhassian, the two physicians who evaluated her in 2020 … [t]he notes from Dr. Ashikyan and Ms. Aguilar, the psychologist and social worker who treated Ms. Brand are consistent with Ms. Brand's reporting of what allegedly occurred and how she has been feeling emotionally." (*Ibid*.) Finally, applicant "openly acknowledged a past history of emotional distress … in a manner that would be uncharacteristic of an individual who was attempting to conceal or distort information for his own gain." (*Ibid*.) Following the QME's explication of her reasoning, the QME concluded "I believe that the applicant was reliable, and

I can formulate opinions regarding diagnosis, disability, and causation, given the information available." (*Id.* at p. 42.)

The parties proceeded to trial on December 6, 2023, and on June 4, 2024, applicant testified to increased work volume after the pandemic, and to difficulties in interacting with her coworkers, who she described as openly hostile. (Minutes of Hearing and Summary of Evidence, dated December 6, 2023, at p. 4:9.) Applicant's supervisor Mr. Acevedo testified that he was unaware of applicant's difficulties with her coworkers until she filed a grievance. (*Id.* at p. 8:7.) Applicant's co-worker Tina Thompson testified that her relationship with applicant was "difficult," but denied the relationship was "hostile." (*Id.* at p. 9:1; 9:17.) Applicant's co-worker Teri Lutz testified that there was likely "tension" between applicant and Ms. Thompson, but that Ms. Lutz "had no issues with Ms. Brand." (*Id.* at p. 9:25.)

Following the parties' submission of the matter for decision, the WCJ issued the F&O, determining that applicant had not met her burden of establishing injury AOE/COE. The WCJ issued a one-sentence Opinion on Decision, which is reproduced here in its entirety:

> Based upon Applicant's non-credible testimony, the testimony of defense witnesses and the medical reporting of Qualified Medical Evaluator Dr. Mara Tansman, PsyD, dated January 26, 2021 (Joint Ex. 1) it is found that Applicant did not sustain industrial injury arising out of and in the course of employment causing injury to her psyche, stomach, and headaches during the period August 5, 2019, through August 14, 2020.
>
> (Opinion on Decision, at p. 1.)

Applicant's Petition asserts she is aggrieved by "the lack of specificity of the findings of fact." (Petition, at p. 1:21.) Applicant contends that her "trial testimony confirmed her feelings and actual events which precipitated the need for medical treatment," and that defense witnesses confirmed there "was in fact some animosity towards applicant and a lack of beneficial supervision from management to quell the problems applicant was experiencing with her other "favored" co-workers." (*Id.* at p. 2:15.)

Defendant's Answer likens applicant's conduct to the case of *Verga v. Workers' Comp. Appeals Bd.* (2008) 159 Cal.App.4th 174 [73 Cal.Comp.Cases 72], a case in which applicant "was the aggressor, and she created the negative work atmosphere that she asserts caused her psychological injuries." (*Id.* at p. 188.) Defendant contends that in the instant matter, applicant

"repeatedly misperceived her coworkers' attempts to help her as hostile conduct on the part of her coworkers." (*Id.* at p. 12:4.)

The WCJ's Report addresses the issue of his credibility determination, noting that "[t]he undersigned had the opportunity, in real time, to assess the applicant subjected to direct examination and cross-examination," and that applicant's "testimony was simply not credible and the undersigned made a determination and finding that the applicant was not credible." (Report, at p. 4.)

Section 5313 requires the appeals board and the WCJ to "make and file findings upon all facts involved in the controversy and an award, order, or decision stating the determination as to the rights of the parties," and further requires that "[t]ogether with the findings, decision, order or award there shall be served upon all the parties to the proceedings a summary of the evidence received and relied upon and the reasons or grounds upon which the determination was made."

The WCJ's opinion on decision "enables the parties, and the Board if reconsideration is sought, to ascertain the basis for the decision, and makes the right of seeking reconsideration more meaningful." (*Hamilton v. Lockheed Corporation* (*Hamilton*) (2001) 66 Cal.Comp.Cases 473, 476 (Appeals Board en banc), citing *Evans v. Workmen's Comp. Appeals Bd.* (1968) 68 Cal.2d 753, 755 [33 Cal.Comp.Cases 350, 351] (*Evans*).) A decision "must be based on admitted evidence in the record" (*Hamilton, supra*, at p. 478), and must be supported by substantial evidence. (Lab. Code, §§ 5903, 5952(d); *Lamb v. Workmen's Comp. Appeals Bd.* (1974) 11 Cal.3d 274 [39 Cal.Comp.Cases 310] (*Lamb*); *Garza v. Workmen's Comp. Appeals Bd.* (1970) 3 Cal.3d 312 [35 Cal.Comp.Cases 500] (*Garza*); *LeVesque v. Workmen's Comp. Appeals Bd.* (1970) 1 Cal.3d 627 [35 Cal.Comp.Cases 16] (*LeVesque*).) As required by section 5313 and explained in *Hamilton*, "the WCJ is charged with the responsibility of referring to the evidence in the opinion on decision, and of clearly designating the evidence that forms the basis of the decision." (*Hamilton, supra*, at p. 475.)

Following our review of the entire record occasioned by applicant's Petition, we conclude that the F&O does not adequately set forth the basis for the WCJ's decision. Here, QME Dr. Tansman has evaluated applicant, administered diagnostic testing, and performed a complete record review. The QME's comprehensive medical-legal report details five separate factors which the QME relied upon in determining that applicant was credible. (Ex. 1, Report of Mara Tansman, Psy.D., dated January 26, 2021, at p. 41.) Moreover, it is not disputed that applicant sought and

received contemporaneous and ongoing medical treatment in response to her perceived industrial stressors and was medically restricted to working from home for a period of time as a result. When the parties proceeded to trial, applicant and three defense witnesses offered testimony relevant to multiple interactions between applicant and her co-workers, to the working conditions in the office they shared, and to the nature of their working relationships. (Further Minutes of Hearing and Summary of Evidence, date June 4, 2024, at pp. 2:13; 7:1; 8:21; 9:22.) Yet, despite a comprehensive QME medical-legal evaluation, an express and multifactorial finding of credibility by the QME, and trial with testimony from four witnesses, the WCJ's Opinion on Decision reduces the analysis of the entire evidentiary record to a single statement in which the WCJ opines that based on the witness testimony and the reporting of the QME he found applicant's testimony to be "non-credible."

The Opinion on Decision does not discuss whether there were separate factors of causation that the WCJ evaluated, or why the entirety of applicant's testimony was analyzed as a single composite factor of causation. The Opinion on Decision offers no substantive analysis of applicant's testimony regarding multiple interactions with her coworkers, increased workload, and allegations of a generally hostile work environment. To the extent that the causation of applicant's alleged psychiatric disability was multifactorial, the WCJ does not address whether any or all of these factors were actual events of employment. To the extent that various factors were actual events of employment, the WCJ does not analyze whether the actual events of employment meet the predominant cause threshold. Nor does the Opinion on Decision offer a discussion of the five separate indicia of reliability discussed by the QME, or why the WCJ agreed or disagreed with any or all of those factors. Nor does the Opinion on Decision address applicant's contemporaneous medical treatment during the alleged cumulative injury period, or whether applicant's version of events was incompatible with the testimony of her coworkers.

Section 5908.5 requires that the appeals board state the evidence relied upon and specify in detail the reasons for its decisions. (Lab. Code, § 5908.5.) The California Supreme Court has observed, "[t]he purpose of the requirement that evidence be stated and reasons detailed … is to assist the reviewing court to ascertain the principles relied upon by the lower tribunal, to help that tribunal avoid careless or arbitrary action, and to make the right of appeal or of seeking review more meaningful." (*Evans, supra*, 68 Cal.2d 753, 755.)

We acknowledge that the WCJ's findings on credibility are entitled to great weight because the WCJ had the opportunity to observe the witnesses and to weigh their statements in connection with their manner on the stand. (*Garza, supra*, 3 Cal.3d 312, 319.) However, we conclude that the lack of analysis or citation to the evidentiary record in the Opinion on Decision and in the WCJ's Report effectively abrogates the parties' rights to due process and falls short of the minimum standards set forth in in *Hamilton, supra*. While we accord to the WCJ's credibility determination the weight to which it is entitled, the WCJ may not enter a credibility determination in lieu of the statutorily required analysis of the issues presented as supported by citation to the evidentiary record. (Lab. Code, § 5313.) Accordingly, we will grant applicant's Petition, rescind the F&O, and return this matter to the trial level for further proceedings.

In so doing, we offer the following nonbinding guidance to the parties. We observe that section 3208.3(b)(1) requires that "[i]n order to establish that a psychiatric injury is compensable, an employee shall demonstrate by a preponderance of the evidence that actual events of employment were predominant as to all causes combined of the psychiatric injury." (Lab. Code, § 3208.3(b)(1).) We note that the QME reporting has identified various events of employment as contributing factors in the accretion of industrial stressors experienced by applicant during the claimed cumulative injury period. These factors include, but are not limited to, specific interactions between applicant and her coworkers, generalized workload stressors, and/or a perceived hostile work environment. To the extent that any of these or any other identified factors may be actual events of employment, the analysis required under section 3208.3(b)(1) will require that the QME determine the percentage of causation for each distinct factor. The WCJ may thereafter assess whether those factors were "actual events of employment," and based thereon, determine whether actual events of employment were a predominant cause of applicant's psychiatric disability. Accordingly, the parties may wish to obtain supplemental reporting from the QME to address whether there are discrete factors of causation, and their respective percentages of causation.

In summary, we conclude that the WCJ's decision does not contain an appropriate analysis of the evidence presented and is not supported by citation to the evidentiary record. We further conclude that while the WCJ's credibility determinations are entitled to great weight, the due process rights of the parties are paramount and require that the decision of the WCJ fully analyze the issues presented and to clearly designate the evidence that forms the basis of the decision.

(*Hamilton, supra*, 66 Cal.Comp.Cases 473, 475.) Accordingly, we will grant reconsideration, rescind the F&O, and return this matter to the trial level.

For the foregoing reasons,

IT IS ORDERED that reconsideration of the decision of September 13, 2024 is **GRANTED**.

IT IS FURTHER ORDERED, as the Decision After Reconsideration of the Workers' Compensation Appeals Board, that the decision of September 13, 2024 is **RESCINDED** and that this matter is **RETURNED** to the trial level for such further proceedings and decisions by the WCJ as may be required, consistent with this opinion.

WORKERS' COMPENSATION APPEALS BOARD

/s/ CRAIG SNELLINGS, COMMISSIONER

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

/s/ JOSEPH V. CAPURRO, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

December 23, 2024

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

BARBARA BRAND
LAW OFFICES OF RONALD J. NOLAN
OFFICE OF THE COUNTY COUNSEL-LOS ANGELES

SAR/abs

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