WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

DANIEL PEREA, *Applicant*

vs.

COUNTY OF ORANGE, permissibly self-insured, administered by SEDGWICK CLAIMS MANAGEMENT SERVICES, *Defendants*

Adjudication Numbers: ADJ14612291; ADJ14612308
Santa Ana District Office

OPINION AND ORDER GRANTING PETITION FOR RECONSIDERATION AND DECISION AFTER RECONSIDERATION

Defendant seeks reconsideration of the Findings of Fact and Orders (F&O) issued on September 10, 2024, wherein the workers' compensation administrative law judge (WCJ) found that (1) applicant sustained cumulative trauma injury to the lumbar spine while employed by defendant during the period of March 1, 2020 through March 20, 2021; (2) applicant's injuries of March 24, 2021 did not arise out of and during the course of employment; and (3) the record requires further development as to whether applicant sustained cumulative trauma injury to the hips and legs, whether there is permanent, temporary, partial disability due to cumulative trauma injuries, and whether there is need for medical treatment for any body parts or conditions resulting therefrom.

The WCJ ordered that applicant take nothing in ADJ14612291, and that the record be further developed in ADJ14612308 as to various issues, including whether applicant sustained cumulative trauma injury to his hips and legs.

Defendant contends that the WCJ erred by (1) finding that applicant sustained cumulative trauma injury during the period of March 1, 2020 through March 20, 2021; and (2) ordering further development of the record on the issue of whether applicant sustained cumulative trauma injury to the hips and legs.

We did not receive an Answer.

We have reviewed the contents of the Petition and the Report. Based upon our review of the record, and for the reasons stated below, we will grant reconsideration, and, as our Decision

After Reconsideration, we will rescind the F&O and substitute a new F&O that clarifies that applicant sustained cumulative injury to the lumbar spine during the period up to March 30, 2021 and that the issue of the date of injury under Labor Code section 5412 is deferred. We make no substantive changes to the WCJ's decision.

BACKGROUND

On May 7, 2021, applicant filed an application for adjudication, alleging specific injury to the back, left leg, and hips while employed as a correction service technician on March 24, 2021 (ADJ14612291). (Application for Adjudication, May 7, 2021, p. 9.)

On that same date, applicant filed an application for adjudication, alleging cumulative trauma injury to the back, bilateral legs, and hips while employed as a correction service technician during the period of March 1, 2020 through March 30, 2021 (ADJ14612308). (Application for Adjudication, May 7, 2021, p. 9.)

On June 24, 2024, the matter proceeded to trial on the following issues in ADJ14612291:

1. Injury arising out of and in the course of employment.
2. Temporary disability . . .
3. Permanent disability.
4. Apportionment.
5. Attorney fees which will be assessed against permanent disability only if awarded.
6. Defendant raises the injury arose out of and during voluntary participation in off-duty activity not constituting a part of Applicant's work duties, citing Labor Code Section 3600 (a) (9).
7. Defendant asserts a PQME rating of 80% (15.03.02.03-2[1.4]-3-4901-5-5)4% after adjustment.

(Minutes of Hearing and Order of Consolidation, June 24, 2024, pp. 2:24-3:11.)

In ADJ14612308, the issues for trial were:

1. Injury arising out of and in the course of employment.
2. Temporary disability . . .
3. Permanent disability.
4. Apportionment.
5. Need for further medical treatment.
6. Attorney fees to be assessed against PD only if awarded. It should be noted the parties agree the PQME rates after adjustment at 4% and 1% respectively.

(Minutes of Hearing and Summary of Evidence, August 19, 2024, p. 2:5-14.)

At trial, applicant testified that his duties changed after the Covid-19 pandemic arose, and he no longer received help from inmates to perform certain tasks. He asked his supervisor, "When will we get inmates to help us because my back is in pain." (*Id.*, p. 5:17-23.)

He first experienced pain after Covid began when he was picking up trash bags and pulling or putting them out. After reviewing his deposition transcript, he acknowledged that he previously testified that he did not report pain immediately when it happened. He did report the pain to his supervisor as extreme pain in his back, but the reporting was delayed. (*Id.*, p. 7:9-17.)

Applicant's supervisor, Armando Ruiz, testified that after Covid began the correctional facility was locked down, which caused normal procedures to be halted, and work by inmates was no longer allowed. Many duties ordinarily performed by inmates, like feeding other inmates or taking out trash, would now be performed by technicians. He did not recall whether applicant had other technicians to help him. (*Id.*, p. 11:5-9.)

He did receive complaints about increased duties from other employees, and a few employees reported workers' compensation injuries due to their increased workload. (*Id.*, p. 13:6-8.)

In the Report, the WCJ states:

> Applicant suffered cumulative trauma injury on 03/30/2021[fn 1] . . .
>
> [fn 1] Defendant does accurately identify a scrivener's error in the Findings of Fact and Orders. The date of injury is 03/30/2021 pursuant to Labor Code §5412.
>
> . . .
>
> **IS THERE SUBSTANTIAL EVIDENCE OF 03/30/2021 CUMULATIVE TRAUMA INJURY TO SUPPORT THE FINDING OF FACT AND ORDERS IN ADJ14612308?**
>
> . . .
>
> The undersigned considered both Applicant and Witness Ruiz statements confirmed in sworn, credible testimony that COVID-19 halted inmate worker assistance, requiring employees to "buddy up," causing increased work as well as a breadth of repetitive activities performed for Defendant in the form of sweeping, mopping, taking industrial trash bags full of foods as well as liquids out of trash cans, transporting them to larger big industrial trash cans outside the facility for up to eight (8) trash cans in each of three (3) modules, three (3) times a day, and providing provisions for approximately 200 inmates in the form of food (and milk) after "COVID hit."[fn]
>
> . . .
>
> The material facts confirmed by both witnesses are that Applicant was exposed to repetitive physically traumatic activities extending over a period of time, the

combined effect of which caused him to suffer cumulative injury to his back because of them and may have caused him injuries to his hips and legs.

The Panel Qualified Medical Evaluator Dr. Frederick Nicola M.D. (hereinafter "PQME Nicola") correctly found "(b)ased upon…medical records and reviewing his work activities… an industrial contribution from the cumulative trauma . . . His subsequent material deposition testimony in full context confirms the result reached in the Findings and Orders as issued:

"From a medical standpoint, *there's no medical records supporting* (cumulative trauma) . . .
. . .
Reporting injuries goes not to disputed compensability of cumulative trauma injury in this matter but to affirmative defenses of statutes of limitations and/or procedural filings neither raised nor disputed. It does not escape the undersigned that Defendant has denied all injuries arose out of and during the course of employment, yet argues Applicant should have reported industrial injuries to others.[fn]

Timely reporting is not found in any measure to legally defeat medical causation issues in this case.
. . .
The PQME Nicola report is accurate and substantial medical evidence when the legally incorrect basis of Applicant's lack of reporting as a factor is given the weight to which it is entitled at trial and in the undersigned's decision, i.e. none as it relates to the medical issues.
. . .
It is undisputed Applicant experienced physically traumatic activities extending over a period of time the combined effect of which caused him cumulative trauma injuries that may have caused permanent and or temporary disability to his back. The record does require further development as addressed in the underlying Findings of Fact and Orders.[fn] The undersigned notes the record further requires correction of a scrivener's error.[fn]
(Report, pp. 1-5.)

DISCUSSION

I.

Former Labor Code 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, Labor Code 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 Labor Code 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 8, 2024, and 60 days from the date of transmission is December 7, 2024. The next business day that is 60 days from the date of transmission is Monday, December 9, 2024. (See Cal. Code Regs., tit. 8, § 10600(b).)[1] This decision is issued by or on Monday, December 9, 2024, so that we have timely acted on the petition as required by Labor Code section 5909(a).

Labor Code 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. Labor Code 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 8, 2024, and the case was transmitted to the Appeals Board on October 8, 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 Labor Code section 5909(b)(1) because

[1] WCAB Rule 10600(b) (Cal. Code Regs., tit. 8, § 10600(b)) states that:

Unless otherwise provided by law, if the last day for exercising or performing any right or duty to act or respond falls on a weekend, or on a holiday for which the offices of the Workers' Compensation Appeals Board are closed, the act or response may be performed or exercised upon the next business day.

service of the Report in compliance with Labor Code section 5909(b)(2) provided them with actual notice as to the commencement of the 60-day period on October 8, 2024.

II.

We turn first to defendant's contention that the WCJ erred by finding that applicant sustained cumulative trauma injury to the lumbar spine during the period of March 1, 2020 through March 20, 2021. Specifically, defendant argues that panel qualified medical evaluator (PQME) Dr. Nicola's reporting does not constitute substantial medical evidence because the medical record on which he relied does not show that applicant reported back pain resulting from his increased work duties.

Preliminarily, we note that the WCJ states that the finding that applicant sustained cumulative injury during the period of March 1, 2020 through March 20, 2021 to the lumbar spine contains a clerical error in that "the date of injury is 03/30/2021 pursuant to Labor Code §5412."

But the parties did not raise the Labor Code section 5412 date of injury as an issue for trial and the F&O includes no finding thereon. (Minutes of Hearing and Order of Consolidation, June 24, 2024, pp. 2:24-3:11; Minutes of Hearing and Summary of Evidence, August 19, 2024, p. 2:5-14.) Hence, the clerical error before us is a mistake of the recording of the end date of the period of exposure and not of the Labor Code section 5412 date of injury.

Accordingly, we will correct the F&O to reflect that applicant sustained cumulative trauma injury to the lumbar spine during the period up through March 30, 2021. (See *Toccalino v. Workers' Comp. Appeals Bd*. (1982) 128 Cal.App.3d 543 [180 Cal. Rptr. 427, 47 Cal.Comp.Cases 145, 154-155] (stating that the Appeals Board may correct a clerical error at any time without the need for further hearings); *In re Candelario* (1970) 3 Cal.3d 702, 705, 91 Cal. Rptr. 497, 477 P.2d 729 (stating that the term "clerical error" includes all errors, mistakes, or omissions which are not the result of the exercise of the judicial function. In determining whether an error is clerical or substantive, it must be determined whether the mistake was made in rendering the judgment or in recording the judgment which was rendered).)

Having corrected the clerical error as to the end date of the period of exposure, we note that the period of cumulative trauma in the F&O does not determine the date of injury under Labor Code section 5412. Moreover, the "one year period" alleged for a cumulative injury, although a common pleading error, is properly a finding of the liability period under Labor Code section 5500.5, which is not at issue in this case. We will explain the difference between the date of injury

based on exposure, here up to March 30, 2021, the Labor Code section 5412 date of injury, and the Labor Code section 5500.5 date of injury below.

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].) A cumulative injury is one that occurs as "repetitive mentally or physically traumatic activities extending over a period of time, the combined effect of which causes any disability or need for medical treatment." (Lab. Code, § 3208.1.)

"The number and nature of the injuries suffered are questions of fact for the WCJ or the WCAB." (*Western Growers Ins. Co. v. Workers' Comp. Appeals Bd.* (1993) 16 Cal.App.4th 227, 234 [58 Cal.Comp.Cases 323].) "[I]f an employee becomes disabled, is off work and then returns to work only to again become disabled, there is a question of fact as to whether the new disability is due to the old injury or whether it is due to a new and separate injury." (*Id*. at p. 234.) However, "[t]he general rule is that where an employee suffers contemporaneous injury to different body parts over an extended period of employment, the employee has suffered one cumulative injury." (G*ravlin v. City of Vista* (Sept. 22, 2017, ADJ513626) 2017 Cal.Wrk.Comp. P.D. LEXIS 413, *16.)[2] "If, however, the employee's occupational activities after returning to work from a period of industrially-caused disability are *not* injurious—i.e., if any new period of temporary disability, new or increased level of permanent disability, or new or increased need for medical treatment result solely from an *exacerbation* of the *original* injury—then there is only a *single* cumulative injury." (*Id.*at p. *24.)

For example, in *Western Growers*, applicant originally suffered an industrial injury of depression. (*Western Growers Ins. Co. v. Workers' Comp. Appeals Bd.* (1993) 16 Cal.App.4th. 227, 235.) He was off work due to his injury and never fully recovered from his depression before returning to work. (*Id.*) He remained under a doctor's care the entire time. (*Id.*) Therefore,

[2] Panel decisions are not binding precedent (as are en banc decisions) on all other Appeals Board panels and workers' compensation judges. (See *Gee v. Workers' Comp. Appeals Bd*. (2002) 96 Cal.App.4th 1418, 1425 fn. 6 [67 Cal.Comp.Cases 236].) 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).) We find the reasoning in *Gravlin v. City of Vista* and *Newberry v. San Francisco Forty Niners* persuasive given that the case currently before us involves similar legal issues.

applicant in that case suffered from a single cumulative injury. (*Id*.) Similarly, a football player sustained one cumulative trauma extending throughout his professional football career when he played for a few different teams when his cumulative injury periods were linked by periods when he received medical treatment for the injured body parts including surgeries, knee aspirations and lumbar epidural blocks. (*Newberry v. San Francisco Forty Niners* (Mar. 14, 2017, ADJ7369276 et. al.) [2017 Cal.Wrk.Comp. P.D. LEXIS 143, *32].)

The Appeals Board decides the issue of whether a cumulative injury exists, and, as discussed further below, substantial medical evidence must support the finding of industrial injury. (*Escobedo v. Marshalls* (2005) 70 Cal.Comp.Cases 604, 621 (Appeals Board en banc).) Here, we agree with the WCJ that applicant sustained cumulative injury up to March 30, 2021.

Next, "[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.) Whether an employee knew or should have known his disability was industrially caused is a question of fact. (*City of Fresno v. Workers' Comp. Appeals Bd. (Johnson)* (1985) 163 Cal.App.3d 467, 471 [50 Cal.Comp.Cases 53] (*Johnson*); *Nielsen v. Workers' Comp. Appeals Bd.* (1985) 164 Cal.App.3d 918, 927 [50 Cal.Comp.Cases 104]; *Chambers v. Workmen's Comp. Appeals Bd.* (1968) 69 Cal.2d 556, 559 [33 Cal.Comp.Cases 722].)

The employer has the burden of proving that the employee knew or should have known their disability was industrially caused. (*Johnson*, *supra*, at p. 471, citing *Chambers v. Workers' Comp. Appeals Bd.*, *supra*, 69 Cal. 2d at p. 559.) That burden is not sustained merely by a showing that the employee knew they had some symptoms. (*Johnson*, *supra*, at p. 471, citing *Chambers*, *supra*, at p. 559.) In general, an employee is not charged with knowledge that their disability is job-related without medical advice to that effect. (*Johnson*, *supra*, at p. 473; *Newton v. Workers' Comp. Appeals Bd.* (1993) 17 Cal.App.4th 147, 156, fn. 16 [58 Cal.Comp.Cases 395].) "Thus, the determination of knowledge is an inherently fact-based inquiry, requiring an individualized analysis in each case." (*Raya v. County of Riverside* (2024) 89 Cal.Comp.Cases 993, 1006.)

On some occasions, a worker may not satisfy the knowledge component until there is medical evidence that the injury was industrial even if they had filed a claim form prior "where the applicant lacks sufficient knowledge of the industrial causation of a disability at the time of the filing of a claim form," especially when the medical condition is difficult to diagnose. (*Raya v.*

County of Riverside (2024) 89 Cal. Comp. Cases 993, 1007, citing *Modesto City Schools Workers' Comp. Appeals Bd. (Finch)* (2002) 67 Cal.Comp.Cases 1647; *ExpoServices/San Francisco Expo Servs. v. Workers' Comp. Appeals Bd. (Cratty)* (2004) 69 Cal.Comp.Cases 260; *Johnson*, *supra*, 163 Cal.App.3d 467; *Nielsen v. Workers' Comp. Appeals Bd.* (1985) 164 Cal.App.3d 918, 927-928.)

Here, the issue of the Labor Code section 5412 date was not raised at trial, and we will defer it.

Labor Code section 5500.5(a) states that liability for cumulative injury is limited to the employer who employed the employee in the year preceding the "date of injury." This "date of injury" is either the last date of injurious exposure or the date under Labor Code section 5412. (Lab. Code, § 5500.5.) The earliest of these two dates is the one that sets the one year period of liability. The liable employer is then the employer that employed applicant during that last year one year period. (*Ibid.*) Here, we see no evidence that applicant had more than one employer during the period of injury, so we do not believe that Labor Code section 5500.5 is applicable.

Turning to the merits of defendant's argument, we observe that all decisions by a WCJ must be supported by substantial evidence. (*Lamb v. Workmen's Comp. Appeals Bd*. (1974) 11 Cal.3d 274 [113 Cal. Rptr. 162, 520 P.2d 978, 39 Cal.Comp.Cases 310]; *LeVesque v. Workmen's Comp. Appeals Bd.* (1970) 1 Cal.3d 627 [83 Cal. Rptr. 208, 463 P.2d 432, 35 Cal.Comp.Cases 16]; *Bracken v. Workers' Comp. Appeals Bd.* (1989) 214 Cal.App.3d 246 [262 Cal. Rptr. 537, 54 Cal.Comp.Cases 349].) Substantial evidence has been described as such relevant evidence as a reasonable mind might accept as adequate to support a conclusion and must be more than a mere scintilla. (*Braewood Convalescent Hosp. v. Workers' Comp. Appeals Bd.* (*Bolton*) (1983) 34 Cal.3d 159 [48 Cal.Comp.Cases 566].) 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*, *supra*, 70 Cal.Comp.Cases at p. 621.) "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 [93 Cal. Rptr. 15, 480 P.2d 967, 36 Cal.Comp.Cases 93, 97].)

Here, we concur with the WCJ that PQME Dr. Nicola's reporting constitutes substantial medical evidence because it is based upon reasonable medical probability, pertinent facts, adequate examination and history, and sets forth reasoning in support of its conclusions. (Report, p. 4.) Contrary to defendant's argument, the fact that the medical record on which Dr. Nicola relied does not show that applicant reported back pain resulting from his increased work duties does not suggest that the reporting lacked adequate history.

On the record before us, the WCJ was presented with no good reason to find PQME Dr. Nicola's reporting unpersuasive, and we also find none. (See *Power v. Workers' Comp. Appeals Bd.* (1986) 179 Cal.App.3d 775, 782 [51 Cal.Comp.Cases 114].)

Additionally, the WCJ concluded that PQME Dr. Nicola's reporting was supported by the credible testimony of applicant and his supervisor, Armando Ruiz, regarding the increase of repetitive activities applicant was required to perform. (Report, p. 4.) We accord these credibility determinations great weight because the WCJ had the opportunity to observe the witnesses' demeanor at trial. (*Garza v. Workmen's Comp. Appeals Bd.* (1970) 3 Cal.3d 312 [35 Cal.Comp.Cases 500]; *McAllister v. Workers' Comp. Appeals B*d. (1968) 69 Cal.2d 408 [33 Cal.Comp.Cases 660].)

Accordingly, we are unable to discern merit to defendant's argument that the WCJ erred by finding that applicant sustained cumulative trauma injury to the lumbar spine.

We next address defendant's contention that the WCJ erred by ordering further development of the record on the issue of whether applicant sustained injury to the hips and legs.

The Appeals Board has the discretionary authority to order development of the record when appropriate to provide due process or fully adjudicate the issues consistent with due process. (See *San Bernardino Community Hosp. v. Workers' Comp. Appeals Bd.* (*McKernan*) (1999) 74 Cal.App.4th 928 [64 Cal.Comp.Cases 986]; *Tyler v. Workers' Comp. Appeals Bd.* (1997) 56 Cal.App.4th 389 [62 Cal.Comp.Cases 924]; *McClune v. Workers' Comp. Appeals Bd.* (1998) 62 Cal.App.4th 1117, 1121–1122 [63 Cal.Comp.Cases 261, 264–265].)

Here, we discern no grounds to suggest that the WCJ's order that the record be further developed went beyond proper exercise of discretion. Accordingly, we will affirm the order.

Accordingly, we will grant reconsideration, and, as our Decision After Reconsideration, we will rescind the F&O, and substitute a new F&O that finds that applicant sustained cumulative injury to the lumbar spine during the period up through March 30, 2021, and defers the issue of

the date of injury under Labor Code section 5412. We make no other substantive changes to the WCJ's decision.

For the foregoing reasons,

IT IS ORDERED that the Petition for Reconsideration of the Findings of Fact and Orders issued on September 10, 2024 is **GRANTED**.

IT IS FURTHER ORDERED, as the Decision After Reconsideration of the Workers' Compensation Appeals Board, that the Petition for Reconsideration of the Findings of Fact and Orders issued on September 10, 2024 is **RESCINDED**, and the following is **SUBSTITUTED** therefor:

ADJ14612308

FINDINGS OF FACT

1. Daniel Perea, while employed during the period up to through March 30, 2021, as a correctional service tech, Occupational Group No. 490, at Santa Ana, California, by the County of Orange sustained injury arising out of and in the course of employment to the back and claims injury to his hips and legs. The issue of injury to other body parts is deferred.

2. The issue of the date of injury under Labor Code section 5412 is deferred.

3. The employer was permissibly self-insured at the time of the claimed injuries.

4. At the time of injury, the employee's earnings were $1,103.20 per week, warranting indemnity rates of $735.47 per week for temporary disability, and $290.00 for week for permanent disability.

5. Applicant is entitled to medical treatment for his back.

6. All other issues are deferred.

ORDERS

1. Parties shall further develop the record by requesting supplemental reporting, including as to the issues of whether:

   a. Applicant sustained injury to his hips and back and any other body parts arising out of and during the course of his employment with defendant during the period up to through March 30, 2021.

   b. Applicant is entitled to temporary disability.

c. Applicant's injury caused permanent disability and any apportionment thereof.

d. The need for reasonable and necessary medical treatment for any other industrially injured body parts.

2. All other issues are deferred.

ADJ14612291

FINDINGS OF FACT

1. Daniel Perea, while employed on March 24, 2021, as a correctional service tech, Occupational Group No. 490, at Santa Ana, California, by the County of Orange claims to have sustained injury arising out of and in the course of employment to the back, hips, and legs.

2. The employer was permissibly self-insured at the time of the claimed injuries.

3. Defendant met its burden under Labor Code section 3600(a)(10)(9) that applicant's injuries on March 24, 2021 arose out of and during voluntary participation in off-duty activity not constituting a part of applicant's work duties.

ORDERS

1. Applicant shall take nothing by way of this claim.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ JOSEPH V. CAPURRO, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

DECEMBER 9, 2024

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

DANIEL PEREA
DIMARCO, ARAUJO & MONTEVIDEO
LAW OFFICE OF JODIE P. FILKINS

SRO/*cs*

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