WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA

BRYAN MILLNER, ***Applicant***

vs.

SUBSEQUENT INJURIES BENEFITS TRUST FUND, ***Defendants***

Adjudication Number: ADJ17739286
Van Nuys District Office

OPINION AND ORDER
DENYING PETITION FOR RECONSIDERATION

Subsequent Injuries Benefits Trust Fund (SIBTF) seeks reconsideration of our October 7, 2024 Opinion and Order Granting Petition for Reconsideration and Decision After Reconsideration, where we concluded that the 35% SIBTF threshold requirement is determined without applying apportionment.

SIBTF makes the same contentions it did in its Answer in the underlying Petition for Reconsideration filed by applicant Byan Millner, which are the same contentions it made in *Anguiano v. Subsequent Injuries Benefits Trust Fund* (November 7, 2023, ADJ11107890) [2023 Cal. Wrk. Comp. P.D. LEXIS 310]; *Heigh v. Subsequent Injuries Benefits Trust Fund* (October 9, 2023, ADJ12253162) [2023 Cal. Wrk. Comp. P.D. LEXIS 269]; *Riedo v. Subsequent Injuries Benefits Trust Fund* (October 21, 2022, ADJ7772639) [2022 Cal. Wrk. Comp. P.D. LEXIS 303]; and *Anguiano v. Subsequent Injuries Benefits Trust Fund* (August 15, 2023, ADJ11107890) [2023 Cal. Wrk. Comp. P.D. LEXIS 214], namely, that the 35% SIBTF threshold requirement should be determined after apportionment.

We received an answer from applicant. We did not receive a Report and Recommendation on Petition for Reconsideration (Report) from the workers' compensation administrative law judge (WCJ).

We have considered the Petition for Reconsideration, the Answer, and we have reviewed the record in this matter. Based on our October 7, 2024 Opinion and Order Granting Petition for Reconsideration and Decision After Reconsideration, which we adopt and incorporate, we deny reconsideration. [1] SIBTF has by now filed multiple pleadings in multiple cases arguing the same issue. We refer SIBTF to our Opinions in each of those cases, which are identified and summarized in our October 7, 2024 Opinion and Order Granting Petition for Reconsideration and Decision After Reconsideration.

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[1] 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 November 20, 2024 and 60 days from the date of transmission is Sunday, January 19, 2025. The next business day that is 60 days from the date of transmission is Tuesday, January 21, 2025 (Monday, January 20, 2025 is a holiday). (See Cal. Code Regs., tit. 8, § 10600(b).) This decision is issued by or on Tuesday, January 21, 2025, 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 our review of the record, we did not receive a Report and Recommendation by a workers' compensation administrative law judge, and no other notice to the parties of the transmission of the case to the Appeals Board was provided by the district office. Thus, we conclude that the parties were not provided with the notice of transmission required by Labor Code section 5909(b)(1). While this failure to provide notice does not alter the time for the Appeals Board to act on the petition, we note that as a result the parties did not have notice of the commencement of the 60-day period on November 20, 2024.

For the foregoing reasons,

IT IS ORDERED that Subsequent Injuries Benefits Trust Fund's Petition for Reconsideration of our October 7, 2024 Opinion and Order Granting Petition for Reconsideration and Decision After Reconsideration is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

/s/ KATHERINE A. ZALEWSKI, CHAIR

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

January 21, 2025

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

BRYAN MILLNER
LEWIS, MARENSTEIN, WICKE, SHERWIN & LEE, LLP
OD LEGAL, LOS ANGELES

LSM/oo

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

OPINION AND ORDER
GRANTING PETITION FOR RECONSIDERATION AND
DECISION FOR RECONSIDERATION

Applicant Bryan Millner seeks reconsideration of the July 17, 2024 Findings of Fact, wherein the workers' compensation administrative law judge (WCJ) found, in relevant part, that applicant failed to establish that he is entitled to Subsequent Injury Benefits Trust Fund (SIBTF) benefits because his subsequent injury, when considered alone and without regard to or adjustment for occupation or age, did not result in 35% or more permanent disability.

Applicant contends that (1) apportionment should not be considered when determining whether the permanent disability arising from the subsequent injury satisfies the SIBTF 35% threshold; and (2) impairments should be added when determining whether the permanent disability arising from the subsequent injury satisfies the 35% threshold.

We received SIBTF's Answer and Amended Answer. The WCJ prepared a Report and Recommendation on Petition for Reconsideration (Report), recommending that the Petition be denied.

We have considered the Petition for Reconsideration, the Answers, and the contents of the Report, and we have reviewed the record in this matter. For the reasons discussed below, we grant reconsideration and amend the July 17, 2024 to find that applicant met the SIBTF 35% eligibility threshold.

FACTS

As the WCJ stated in his Report:

> Applicant, Bryan Millner [] began his employment with the City of Los Angeles as a police officer in August 1996.
>
> According to the history contained in the limited medical reporting herein, applicant sustained a prior specific injury on 4/3/2000 due to a motor vehicle collision, sustaining injuries to his neck, back, and head (concussion). Applicant was reported to have been off work for approximately two months, and eventually resolved the work injury claim by way of stipulated award on 9/23/01 (details unknown).
>
> Applicant sustained another prior work injury on 7/24/12 when he stepped into a pothole resulting in injury to his low back. A lumbar MRI was interpreted to

evidence an extruded lumbar disk herniation, with a lower extremity EMG/NCS interpreted as positive bilaterally for radiculopathy. Applicant was evaluated for this prior injury by an agreed medical evaluator (AME), David Heskiaoff, M.D., who concluded that applicant had a 13% whole person impairment per DRE Cat III. Dr. Heskiaoff also concluded that the entire impairment was due to the 2012 injury, without apportionment. This prior claim resolved by way of stipulated award on 6/30/14 for 18% permanent impairment.

On 11/12/19 applicant sustained another specific injury to his lumbar spine and right shoulder as the result of a "use of force" in arresting a domestic violence suspect (ADJ17739286). This is the "subsequent injury" claim that formed the basis for applicant's petition for SIBTF benefits herein. After a period of treatment, returned to modified work performing administrative duties on 11/8/21.

Applicant was evaluated for the shoulder and lumbar injuries by AME, Steven Silbart, M.D. (Court Exhibits 2-3). Dr. Silbart concluded that applicant had a right shoulder impairment of 13% whole person entirely attributable to the 2019 injury. The undersigned notes, however, that Dr. Silbart's calculations and combination of shoulder impairments was slightly inaccurate, with a corrected impairment of only 12% whole person (the 12% WP calculations were utilized by the parties' in their subsequent stipulated award – see below). With respect to the lumbar injury, Dr. Silbart concluded that applicant's impairment was 21% whole person of which only only 38% was due to the 2019 injury, with 62% caused by his prior 2012 injury.

The 2019 injury claim herein was resolved in Alternative Dispute Resolution (ADR) by way of stipulated award for 38% on 3/15/23 (Court Exhibit 1). The parties stipulated to the following rating strings based upon the reporting of AME Dr. Silbart (with the shoulder disability corrected from 13WP to 12WP):

> Lumbar: 38%(15.03.02.04 - 21[1.4] - 29 - 490I - 37 - 41) 16%PD
> R Shoulder: 100%(16.02.01.00 - 12[1.4] - 17 - 490I - 23 - 26) 26%PD
> 26C16 = 38%PD

Applicant subsequently filed a timely petition for Subsequent Injuries Benefit Trust Fund benefits (SIBTF). Defendant has denied applicant's entitlement to such benefits. At trial herein, the sole issue bifurcated for trial was whether applicant's subsequent injury met the 35% compensability threshold pursuant to L.C. §4751.

(Report, pp. 1-2.)

DISCUSSION

Preliminarily, former Labor Code[1] 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. (§ 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 August 6, 2024 and 60 days from the date of transmission is October 5, 2024. The next business day that is 60 days from the date of transmission is October 7, 2024. (See Cal. Code Regs., tit. 8, § 10600(b).)[2] This decision is issued by or on October 7, 2024, so that we have timely acted on the petition as required by 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

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[1] Subsequent statutory references are to the Labor Code unless otherwise indicated.

[2] 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.

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 August 6, 2024, and the case was transmitted to the Appeals Board on August 6, 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 August 6, 2024.

Turning to merits, the issue of whether apportionment should be included in calculating whether an employee meets the SIBTF 35% threshold has been determined in multiple recent cases: *Todd v. Subsequent Injuries Benefits Trust Fund* (2020) 85 Cal. Comp. Cases 576 [2020 Cal. Wrk. Comp. LEXIS 35] (Appeals Board En Banc); *Anguiano v. Subsequent Injuries Benefits Trust Fund* (November 7, 2023, ADJ11107890) [2023 Cal. Wrk. Comp. P.D. LEXIS 310]; *Heigh v. Subsequent Injuries Benefits Trust Fund* (October 9, 2023, ADJ12253162) [2023 Cal. Wrk. Comp. P.D. LEXIS 269]; *Riedo v. Subsequent Injuries Benefits Trust Fund* (October 21, 2022, ADJ7772639) [2022 Cal. Wrk. Comp. P.D. LEXIS 303]; *Anguiano v. Subsequent Injuries Benefits Trust Fund* (August 15, 2023, ADJ11107890) [2023 Cal. Wrk. Comp. P.D. LEXIS 214].

In *Anguiano*, 2023 Cal. Wrk. Comp. P.D. LEXIS 310, a previous panel decision involving some of the same panel members, we explained that under the doctrine of state decisis, we are bound by the holding in *Bookout v. Workers' Comp. Appeals Bd*. (1976) 62 Cal. App. 3d 214, 228 [132 Cal. Rptr. 864, 41 Cal. Comp. Cases 595], where the Court of Appeal held that the permanent disability attributable to applicant's subsequent injury for the purpose of meeting the 35% threshold requirement under section 4751, excludes apportionment. We explained as such in our en banc[3] decision in *Todd*, where we stated:

> In *Bookout*, applicant was employed as an oil refinery operator and sustained a compensable injury to his back, which was rated at 65% permanent disability. (*Bookout, supra*, 62 Cal. App. 3d at pp. 219–220.) The back disability included a

[3] "En banc decisions of the Appeals Board are assigned by the chairperson on a majority vote of the commissioners and are binding on panels of the Appeals Board and workers' compensation judges as legal precedent under the principle of *stare decisis*." (Cal. Code Regs., tit. 8, § 10325; *City of Long Beach v. Workers' Comp. Appeals Bd*. (*Garcia*) (2005) 126 Cal.App.4th 298, 316, fn. 5 [70 Cal.Comp.Cases 109]; *Gee v. Workers' Comp. Appeals Bd.* (2002) 96 Cal.App.4th 1418, 1424, fn. 6 [67 Cal.Comp.Cases 236].)

limitation to semi-sedentary work. (*Id.* at p. 219.) Prior to his industrial injury, applicant had a nonindustrial heart condition. (*Ibid.*) The heart condition contained two work preclusions: preclusion of heavy work activity and preclusion from excessive emotional stress. (*Id.* at pp. 220–221.) The preclusion of heavy work activity was rated at 34.5% permanent disability. (*Id.* at p. 220.) The preclusion from excessive emotional stress was rated at 12% permanent disability. (*Id.* at pp. 220–221.)

At the trial level, the referee concluded that the heart condition precluding heavy work activity completely overlapped with the back disability limitation to semi-sedentary work. (*Bookout, supra*, 62 Cal. App. 3d at p. 224.) The referee, thus, subtracted the preclusion of heavy work activity of 34.5% permanent disability from the 65% unapportioned permanent back disability and awarded applicant permanent disability of 30.5% for the industrial back injury. (*Id.* at pp. 219–221.) The referee then found that applicant was not eligible for SIBTF benefits based on the finding of 30.5% after apportionment, which was less than the requisite minimum of 35% for a subsequent disability under section 4751. (*Id.* at p. 221.) The Appeals Board affirmed both the 30.5% permanent disability award for the industrial back injury and the finding that applicant was not eligible for SIBTF benefits. (*Id.* at pp. 218–219.)

The Court of Appeal concluded that the Appeals Board had properly determined applicant's permanent disability rating of 30.5% as a result of his compensable back injury, and that the disability resulting from the subsequent injury was compensable to the extent that it caused a decrease in applicant's earning capacity, citing former section 4750 and *State Compensation Ins. Fund v. Industrial Acci. Com. (Hutchinson)* (1963) 59 Cal. 2d 45, 48–49 [27 Cal. Rptr. 702, 377 P.2d 902] (an employer is only liable for the portion of disability caused by the subsequent industrial injury) and *Mercier v. Workers' Comp. Appeals Bd*. (1976) 16 Cal. 3d 711, 715–716 [129 Cal. Rptr. 161, 548 P.2d 361, 41 Cal. Comp. Cases 205] (the fact that injuries are to two different parts of the body does not in itself preclude apportionment). (*Bookout, supra*, 62 Cal. App. 3d at pp. 222–227.)

The court, however, found that applicant was erroneously denied SIBTF benefits under section 4751. (*Bookout, supra*, 62 Cal. App. 3d at p. 228.) It explained that the referee incorrectly instructed the rating specialist to apportion 34.5% for the preexisting nonindustrial heart disability (based on a standard rating of 30%) from the total subsequent injury disability of 65% (based on a standard rating of 60%), rather than utilizing the total disability for the subsequent injury "standing alone and without regard to or adjustment for the occupation or age of the employee" as required by section 4751. (*Ibid.*; § 4751, subd. (b).) It interpreted the language of this requirement as excluding apportionment. Thus, the court held that the permanent disability attributable to applicant's subsequent injury for the purpose of meeting the 35% threshold requirement under the statute was the standard rating of 60%. (*Bookout, supra*, 62 Cal. App. 3d at p. 228; § 4751, subd. (b).)

(*Todd, supra*, 85 Cal. Comp. Cases at pp. 582–583, 2020.)

We also explained that:

SIBTF's citations to *Reina v. Workers Compensation Appeals Bd.* (1997) 63 Cal. Comp. Cases 101 [1997 Cal. Wrk. Comp. LEXIS 6050], *McMahan v. Workers Compensation Appeals Bd. Of California & Subsequent Injuries Fund* (1984) 49 Cal. Comp. Cases 95 [1984 Cal. Wrk. Comp. LEXIS 3217], and *Earley v. Workers Compensation Appeals Bd. Of California & California Subsequent Injuries Fund* (1975) 40 Cal. Comp. Cases 741 [1975 Cal. Wrk. Comp. LEXIS 2304], are not binding authority. *Reina, McMahan*, and *Earley* are all panel decisions that have been writ denied. Panel decisions are not binding precedent (as are en banc decisions) on all other Appeals Board panels and workers' compensation judges. (See *Gee, supra*, 96 Cal. App. 4th at p. 1425, fn. 6.) Further, a California Compensation Cases digest of a "writ denied" case is also not binding precedent. (*Farmers Ins. Group of Companies v. Workers' Comp. Appeals Bd.* (2002) 104 Cal. App. 4th 684, 689, fn. 4, 128 Cal. Rptr. 2d 353 [writ denied opinions have no *stare decisis* effect]; *MacDonald v. Western Asbestos Co*. (1982) 47 Cal. Comp. Cases 365, 366 (Appeals Board en banc).)

(*Anguiano*, 2023 Cal. Wrk. Comp. P.D. LEXIS 310.)

We also stated in another panel decision that:

In *Reina*, the court found that an applicant with a subsequent industrial injury disability that rated on a stipulated, unadjusted basis at less than the statutory criteria does not qualify for SIBTF benefits. We therefore do not view *Reina* as in conflict with *Bookout*.

In *McMahan*, the applicant received an award that he had sustained permanent disability of 37 percent as a result of a specific injury and that his cumulative injury resulted in permanent disability of 311/2 percent after apportionment of 50 percent—and neither party sought reconsideration. Nevertheless, the applicant sought SIBTF benefits based upon the same cumulative injury; and, although the WCJ deemed the cumulative injury a subsequent injury, he concluded that it did not meet the 35 percent threshold for SIBTF benefits. Because we view the applicant's subsequent injury claim to be barred on separate grounds, we do not conclude that *McMahan* stands for the proposition that evaluation of whether a subsequent injury meets the 35 percent threshold from the subsequent industrial injury alone must include apportionment.

Lastly, because *Earley* was decided prior to *Bookout*, we do not view it as persuasive authority to the extent that it conflicts with *Bookout*.

(*Heigh*, 2023 Cal. Wrk. Comp. P.D. LEXIS 269.)

As to SIBTF's contention that in *Whisnant v. Subsequent Ins. Bens. Trust Fund* (January 3, 2022, ADJ8121665) 2022 Cal. Wrk. Comp. P.D. LEXIS 57, the panel there contemplated applying apportionment in determining the 35% threshold, we note that such was not the holding in *Whisnant* and whether apportionment was applied to the subsequent injury or not, it appeared that applicant would not have met the 35% threshold, which is what we stated in that case.

> When removing the adjustments for occupation and age, the final permanent disability is 31%, before apportionment (20 C 7 C 6 C 2 = 31). Dr. Feinberg opined that 50% of applicant's permanent disability is due to the specific injury and 50% is due to the cumulative trauma injury. (Applicant Exhibit 2, Dr. Feinberg's report dated August 22, 2013, p. 17.) Thus, applicant's permanent disability for his cumulative trauma injury is 15.5% after apportionment (16% rounding up). Assuming this permanent disability is attributed to the December 6, 2010 cumulative trauma injury, as applicant would like us to do, it is unclear how this 15.5% permanent disability would meet the 35% permanent disability threshold even when taking into account Dr. Klein's 3% permanent disability and Dr. Lopez's 2% permanent disability, which applicant does not seem to dispute (16 C 3 C 2 = 21).

(*Whisnant*, 2022 Cal. Wrk. Comp. P.D. LEXIS 57.)

Finally, although the WCJ did not reach the merits of applicant's second contention that impairment should be added in determining the 35% threshold, we note that in *Riedo*, 2022 Cal. Wrk. Comp. P.D. LEXIS 303, we concluded that:

> SIBTF is incorrect that the two body parts must be looked at separately in evaluating the 35% threshold requirement. (Answer, pp. 10:26-11:9.) The subsequent injury here is a single cumulative trauma injury to two body parts, applicant's cervical spine and applicant' right thumb. (Applicant Exhibit 17, Joint Findings and Award dated November 20, 2017; Applicant Exhibit 18, Joint Opinion on Decision.) The two body parts must be combined per the CVC to determine the permanent disability resulting from the subsequent cumulative trauma injury. (See *Todd, supra*, 85 Cal.Comp.Cases at p. 587.)

(*Riedo,* 2022 Cal. Wrk. Comp. P.D. LEXIS 303.)

Here, per the WCJ, applicant's unapportioned lumbar injury without consideration of occupation and age is 29% permanent disability. (Report, p. 4.) Applicant's shoulder impairment amounts to 17% permanent disability. Combining 29% with 17% using the Combined Values Chart (CVC) results in 41% permanent disability. Thus, applicant met the 35% SIBTF eligibility threshold.

Accordingly, we grant reconsideration and amend the July 17, 2024 Findings of Fact to find that applicant met the SIBTF 35% threshold. The WCJ is correct that there are a number of qualifying conditions that must be met in order to be entitled to SIBTF benefits. Our conclusion that applicant met the 35% threshold does not automatically entitle him to SIBTF benefits and he must prove the other elements in section 4751 as delineated in our en banc decision in *Todd*.

For the foregoing reasons,

IT IS ORDERED that applicant Bryan Millner's Petition for Reconsideration of the July 17, 2024 Findings of Fact is **GRANTED**.

IT IS FURTHER ORDERED, as the Decision After Reconsideration of the Workers' Compensation Appeals Board, that the July 17, 2024 Findings of Fact is **AFFIRMED EXCEPT** that it is **AMENDED** as follows:

FINDINGS OF FACT

. . .

4. Applicant's subsequent injury met the 35% threshold found in Labor Code, section 4751.

5. The issue of whether applicant is entitled to SIBTF benefits is deferred.

ORDER

There are no orders at this time.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

/s/ KATHERINE A. ZALEWSKI, CHAIR

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

October 7, 2024

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

BRYAN MILLNER
LEWIS, MARENSTEIN, WICKE, SHERWIN & LEE, LLP
OD LEGAL, LOS ANGELES

LSM/oo

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