WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

SHARI MADISON, *Applicant*

vs.

COUNTY OF VENTURA BEHAVIORAL HEALTH, permissibly self-insured, administered by SEDGWICK CLAIMS MANAGEMENT SERVICES, INC., *Defendant*

Adjudication Number: ADJ17972240
Oxnard District Office

OPINION AND ORDER GRANTING PETITION FOR RECONSIDERATION AND DECISION AFTER RECONSIDERATION

Applicant seeks reconsideration of the August 15, 2025 Findings of Fact, which found that she did not sustain injury arising out of and in the course of employment to her right knee on February 8, 2022. Petitioner contends that the evidence does not justify this finding of fact, and that the workers' compensation judge (WCJ) acted without or in excess of her powers by failing to explain how the finding that Applicant was not credible is connected to the conclusion that Applicant did not sustain an industrial injury, contrary to unrebutted medical evidence.

In its answer to the Petition for Reconsideration, Defendant contends that the evidence presented by trial witnesses justifies the finding that Applicant did not sustain an industrial injury, and that this was adequately explained by the WCJ. Defendant further contends that the medical opinions in evidence are based on a false or incomplete history.

The WCJ has prepared a Report and Recommendation, recommending that the petition be denied.

We have considered the allegations of the Petition for Reconsideration, the Answer, and the contents of the Report of the WCJ with respect thereto. Based on our review of the record, and for the reasons stated herein, we will grant reconsideration and amend the WCJ's decision of

August 15, 2025 to find that Applicant sustained injury to her right knee arising out of and in the course of her employment on February 8, 2022, as determined by unrebutted medical evidence.

FACTS

At trial on February 21, 2025, the parties stipulated that Applicant claims to have sustained injury arising out of and in the course of employment to her right knee on February 8, 2022, while employed as a behavioral health clinician, Occupational Group No. 112, at Ventura, California, by County of Ventura Behavioral Health, permissibly self-insured. (Minutes of Hearing and Summary of Evidence (MOH/SOE) dated February 21, 2025, page 2, lines 4-9.)

Two medical reports and a deposition of Panel Qualified Medical Evaluator (PQME) Christophe Lee, M.D. were admitted into evidence as Applicant's 1 through 3. (*Id*., page 2, lines 17-25.) After evaluating Applicant and reviewing the records that were initially provided by the parties, Dr. Lee concluded, inter alia, that Applicant's "[r]ight knee sprain occurred on February 8, 2022, when she twisted at work, within reasonable medical probability." (Applicant's Exhibit 3, PQME Report by Dr. Lee dated October 7, 2023, page 20, para. 2.) The parties then took Dr. Lee's deposition, which concluded with the following testimony:

> Q Okay. And absent any other evidence to the contrary of what you have right now, this right knee condition that she has, based on the evidence that you have right now, is a result of twisting her knee on February 8, 2022, when she tripped on a bubble in the floor at work?
> A Correct. Yes.
> MR. STONE: Anything further?
> MS. KEMPNER: Nothing further.

(Applicant's Exhibit 2, Deposition Transcript of PQME Dr. Lee dated November 15, 2023, page 25, lines 17-25.)

Dr. Lee evaluated Applicant again on January 4, 2025, and reviewed additional records provided by the parties. His conclusion with respect to the right knee injury remained the same: "Right knee sprain occurred on February 8, 2022, when she twisted at work, within reasonable medical probability." (Applicant's Exhibit 1, PQME Report by Dr. Lee dated January 4, 2025, page 16, para. 1.) Dr. Lee noted that Applicant had returned to work, and he indicated restrictions of no lifting, pushing, pulling, or carrying more than 10 pounds, and no overhead activities using the bilateral upper extremities, no prolonged standing or walking, and no ladder or stair climbing. (*Id*., page 17, para. 1.)

Dr. Lee is the only medical expert opinion in evidence, but the record is replete with photographs and lay testimony. An undated document with ten pages of photographs entitled, "Breakroom Floor Trip Hazard Pictures" was admitted into evidence as Defendant's Exhibit A. (MOH/SOE dated February 21, 2025, page 3, lines 1-4.) The pictures, which are not described in the findings or Opinion on Decision, appear to show the following: (1) a side view of a woman in a face mask, who is standing next to an orange cone on the floor, facing a counter with a sink and a black countertop microwave; (2) a sign on floor that says "CAUTION UNEVEN FLOOR" with a clear plastic ruler across the bottom of it (the texture or evenness of the floor under sign cannot be seen); (3) a close-up side view of the floor sign and ruler (again, the floor under sign cannot be seen, but in this photograph it looks like the edge of the sign farthest from the camera is even, whereas the closest edge is not, and the line under the word "FLOOR," which appeared to be straight in the previous photograph, appears to be wrinkled); (4) a view looking straight down at the floor at the right cabinet door, with no floor topography visible from this vantage, directly overhead; (5) another view looking down at the floor, by the left cabinet door, also with no visible floor topography, which appears to be a continuation of the previous photograph (followed by a third small segment of what appears to be the same photograph); (6) a side view of cabinets only (no floor); (7) a photograph of what appears to be a different counter and sink, with a white, above-counter microwave, and the top of an orange cone (no floor is visible); (8) a photograph of unidentified wooden panels (with no floor); (9) a photograph that appears to be a continuation of photograph #8; (10) a view straight down (with no floor topography visible from directly overhead) including two cabinet doors on the left side of the picture, a penny on the floor, and two black shoes cut off at the right side of the picture, presumably belonging to the photographer, but not the same shoes worn by the woman in photograph #1.

After the first day of trial, the WCJ admitted three additional photographs into evidence, all of them taken by Applicant. (MOH/SOE dated April 23, 2025, page 2, lines 7-9.) Applicant's Exhibit 4 appears to be an across-the-room view of a counter with a microwave on it, next to what appears to be an unremarkable floor, except for a small light spot in front of the cabinet doors below the microwave. Applicant's Exhibit 5 is a low, almost floor-level view from the right side of what appears to be the same set of cabinets shown in the previous photograph, but in this photograph the floor appears to have some very subtle bubbles or wrinkles on either side of the small light spot on the floor. Applicant's Exhibit 6 features a view through a doorway into what

may be the same room as in the previous two photographs, except that the floor appears to be darker, there is no microwave on the counter, and there is a red "X" on the floor by a doorstop that is holding the door open.

In addition to PQME Dr. Lee's two reports and deposition transcript, and the above-described photographs, the trial record includes three days of witness testimony. On February 21, 2025, Applicant Shari Madison, clinic safety officer Jamie Williams, and investigator Julie Griffin testified. The WCJ continued the Trial to March 21, 2025, then to April 16, 2025, and then to April 23, 2025, when additional testimony was taken from Ms. Griffin and Applicant, followed by testimony from Behavioral Clinician IV Michael Colton and Clinical Administrator III Marcus Lopez. The WCJ continued the trial again to May 16, 2025, and then to May 22, 2025, when additional testimony was taken from Mr. Lopez, Ms. Griffin, and Applicant.

According to the summary of her trial testimony, Applicant described her injury of February 8, 2022 as follows:

> On February 8th, 2020, she was in the break room washing her dishes at the sink and wiped down the water that sprays, and her knee caught on a bubble that's offset from the kitchen sink. She did not fall to the ground. She felt like the bubble caught her knee and twisted her leg to the side, and she then had a twinge. She twisted as she stepped to the trash can that was three steps away. She felt a twinge, which she means as pain.
>
> When asked if she thought she had hurt her knee, she responded that she wasn't really sure. The twinge did not go away for a few days. When asked if she reported it, she indicated she emailed her boss, Michael Colton. No claim form was provided. She was able to file it, but she doesn't believe the injury was accepted.

(MOH/SOE February 21, 2025, page 3, lines 18-25.)

Applicant obtained medical treatment on her own and underwent arthroscopic surgery in October of 2022. (*Id*., page 4, lines 2-7.) She denied doing anything physically active or having any missteps on anything outside of work causing strain to the knee. (*Id*., page 4, lines 11-13.) She had a prior knee surgery 30 years ago, and a subsequent fall down the stairs in 2023. (*Id*., page 7, lines 20-25.)

Applicant also answered numerous questions that were less directly related to her injury claim, including questions about her role as a union steward, about having other workers' compensation claims, and about conflict with her supervisor. (*Id*., page 4, lines 20 ff.)

On her second day of testimony, Applicant authenticated the photographs admitted as Applicant's 4, 5, and 6 as pictures that she had taken. (MOH/SOE April 23, 2025, page 3, lines 13 ff.)

Jamie Williams, a mental health associate and clinic safety officer, also testified. Ms. Williams stated that she was aware of several bubbles on the floor before Applicant's injury and had reported those bubbles, including the bubble related to Applicant's injury. She testified that after Applicant's injury, a sign was put up at that location, and the floor was fixed. Ms. Williams testified that she considers Applicant a friend, and that they occasionally spend breaks or go to Walmart together. (MOH/SOE February 21, 2025, page 14, lines 18-25.)

When Applicant was asked if Ms. Williams is her friend, she responded, "I consider her my colleague." When asked if they take breaks together, Applicant admitted that they do. (*Id*., page 9, lines 2-6.)

Defendant's investigator, Julie Griffin, testified that her company, Griffin Investigations, was hired by Defendant to investigate the facts surrounding Applicant's injury claim. (*Id*., page 17, lines 13-16.) She took statements and pictures, and submitted the first three of the ten pictures that were admitted as Defendants' Exhibit A. Ms. Griffin explained that the first of these photographs shows Applicant indicating where her foot caught at the time of her injury. (*Id*., page 18, lines 2-6.) Ms. Griffin believes the second photograph shows that the floor is flat. She observed the floor on her hands and knees and "saw that it was clinically flat." (*Id*., page 18, lines 7-13.) She did not take photographs 4 through 10 in Defendant's Exhibit B and indicated that she had never seen them before. (*Id*., page 19, lines 10-15.)

On the third day of trial testimony, Ms. Griffin testified that Applicant did not mention that she had taken her own pictures when they first met. (MOH/SOE May 22, 2025, page 9, lines 8-9.) When Ms. Griffin asked Applicant to show her the bubble on the break room floor, the bubble was under the paper sign. Ms. Griffin did not lift the paper to inspect the floor underneath. (*Id*., page 10, lines 7-9.)

Defendant's employee Michael Colton testified that he and Applicant worked together in Oxnard between 2017 and 2022. (MOH/SOE April 23, 2025, page 11, line 1.) Mr. Colton was a Behavioral Clinician IV. (*Id*., page 11, lines 2-3.) He was Applicant's direct supervisor, and Marcus Lopez was the other supervisor there. (*Id*., page 11, lines 8-9.)

Mr. Colton testified that Applicant reported her injury to him in an email message on February 8 or 9, 2025. (*Id*., page 11, lines 9-11, 20-21.) It didn't seem to Mr. Colton that Applicant was seeking medical treatment. (*Id*., page 12, lines 12-13.) He expects employees to communicate a need for medical treatment to him in person. (*Id*., page 12, lines 16-17.) Applicant asked for medical treatment two weeks later "through a normal form." (*Id*., page 12, lines 17-18.)

When Applicant first reported to Mr. Colton that she had tripped over a bubble and injured herself, he talked to her and looked at the floor. (*Id*., page 12, lines 1-3.) Mr. Colton was asked what his understanding was of where the bubble was located, and responded that it was in front of the microwave in the staff kitchen, so he went there. When asked if he saw the bubble, Mr. Colton responded that he had a difficult time finding anything. He found something that might have been a bubble. He felt if somebody hadn't pointed right to where it was, he would have never found it. (*Id*., page 12, lines 3-7.) It "seemed very minimal." (*Id*., page 12, line 8.) This was on February 9, 2025, the day after Ms. Colton's claimed injury. (*Id*., page 12, lines 8-9.) He did not consider giving Applicant a claim form. (*Id*., page 12, lines 9-11.)

Mr. Colton agreed with the defense attorney's suggestion that Applicant was unhappy to hear that he would be observing her. (*Id*., page 11, lines 21-23.) It is his opinion that Applicant does not like to be guided or told what to do. (*Id*., page 12, lines 21-22.)

Mr. Colton did not think Applicant was injured, but he knew that she was leaving work to go to doctors; he thought that she was already seeing them because she "seemed to have a lot of medical problems." (*Id*., page 13, lines 24-25.)

Defendant's employee Marcus Lopez testified that he worked with Applicant at Oxnard from November 2017 through April 2022 as a Clinical Administrator III. (MOH/SOE April 23, 2025, page 17, lines 5-8.) Mr. Lopez testified that he supervised Applicant in the clinic. It was a shared administrator position with Mike Colton as co-administrators, but Mr. Colton was Applicant's direct supervisor. (*Id*., page 17, lines 9-11.)

Mr. Lopez testified that he is aware of Applicant's claim of injury to her right knee. He first heard about it from an email dated February 9, 2022 addressed to Mr. Colton. In that email message, which was primarily about Mr. Colton overseeing a Cognitive Behavioral Therapy (CBT) group, Applicant wrote that Mr. Colton should check the floor for bubbles because she tripped over it several times and that someone could get seriously hurt. (*Id*., page 17, lines 12-19.) Mr. Lopez did not personally see bubbles on the break room floor. (*Id*., page 18, lines 22-23.)

Mr. Lopez was of the opinion that Applicant was upset that administrators wanted to review her training. (*Id*., page 18, lines 10-11.) He testified that she was a union steward and advised others on filing grievances, which in his opinion were all unfounded. (*Id*., page 18, lines 13-18.)

Mr. Lopez also testified that he was asked by the claims examiner to take pictures of the location of Applicant's injury, so he took pictures and emailed them on February 25, 2022. (MOH/SOE May 22, 2025, page 2, lines 9-11.) This was followed by extensive examination of Mr. Lopez about the break room floor and its appearance. Mr. Lopez found it hard to believe but not impossible that Applicant tripped over the area mentioned. (*Id*., pages 4-8.)

On the third day of trial testimony, Applicant testified in rebuttal that she was awarded the status of a "diplomat," meaning one who supervises a CBT group. (*Id*., page 12, line 24 to page 13, line 3.) Mr. Colton was also a "diplomat" but not Mr. Lopez. (*Id*., page 13, lines 2-3.) Applicant felt that there was retaliation against her for being a union steward. (*Id*., page 13, lines 8-9.) Applicant did not see investigator Ms. Griffin put a ruler on the bubble on the break room floor, because Ms. Griffin's body was in the way. (*Id*., page 15, lines 6-9.) Applicant thinks that Mr. Colton told staff not to talk to her, based on what a colleague named Brenda told her. (*Id*., page 17, lines 3-6.) She reported her injury to Mr. Colton by email instead of in person because she feared telling him face-to-face. (*Id*., page 17, lines 6-7.)

After three days of testimony, the parties submitted the sole issue of whether Applicant's claimed injury of February 8, 2022 arose out of and in the course of employment (AOE/COE).

The WCJ issued a Findings of Fact dated August 15, 2025, which found that Applicant did not sustain injury arising out of and in the course of employment to her right knee on February 8, 2022. The concurrently issued Opinion on Decision makes no reference to the medical evidence, but concludes that "applicant lacks credibility and did not sustain an injury." (Opinion on Decision dated August 15, 2025, page 4, lines 1-2.) The WCJ's Report addresses the medical evidence, but clarifies that based on Applicant's lack of credibility, the WCJ questioned "whether [Applicant] in fact sustained any injury at all." (Report and Recommendation dated September 16, 2025, page 6, line 1.)

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 September 16, 2025 and 60 days from the date of transmission is Saturday, November 15, 2025. The next business day that is 60 days from the date of transmission is Monday, November 17, 2025 (See Cal. Code Regs., tit. 8, § 10600(b).)[1] This decision is issued by or on Monday, November 17, 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

[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.

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 WCJ, the report was served on September 16, 2025 and the case was transmitted to the Appeals Board on September 16, 2025. 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 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 September 16, 2025.

II

A grant of reconsideration has the effect of causing "the whole subject matter [to be] reopened for further consideration and determination" (*Great Western Power Co. v. I.A.C. (Savercool)* (1923) 191 Cal. 724, 729 [10 I.A.C. 322]) and of "[throwing] the entire record open for review." (*State Comp. Ins. Fund v. I.A.C. (George)* (1954) 125 Cal.App.2d 201, 203 [19 Cal.Comp.Cases 98, 99].) Thus, once reconsideration has been granted, the Appeals Board has the full power to make new and different findings on issues presented for determination at the trial level. Based on an independent examination of the record, the Appeals Board may reweigh the evidence and make a determination of fact that is different from the determination made at the trial level. (*Allied Comp. Ins. Co. v. Industrial Acc. Com. (Lintz)* (1961) 57 Cal. 2d 115, 119 [26 Cal. Comp. Cases 241, 243].) We accord great weight to WCJs' findings on the credibility of witnesses, if they are supported by "ample, credible evidence" or "substantial evidence," we exercise independent judgment as to whether the evidence satisfies the required elements of the applicable law and may reject findings of the WCJ upon our review of the record. (*Garza v. Workmen's Comp. Appeals Bd.* (1970) 3 Cal.3d 312, 319 [35 Cal.Comp.Cases 500].) The Appeals Board is empowered on reconsideration to resolve conflicts in the evidence, to make its own credibility determinations, and to reject the findings of the WCJ and enter its own findings on the basis of its review of the record. (*Rubalcava v. Workers' Comp. Appeals Bd.* (1990) 220 Cal.App.3d 901, 908.))

Here, we disagree with the WCJ's reasoning with respect to Applicant's credibility, and the lack of any explicit reasoning that would connect such a finding to facts on which Dr. Lee

based his unrebutted finding that as a matter of reasonable medical probability, Applicant injured her knee arising out of and in the course of employment when she twisted her knee in the break room.

Clearly there was tension between Applicant and her two supervisors. However, the supervisors' testimony is just as likely to be tainted as Applicant's under such circumstances. It makes no sense that Applicant, a long-term employee who continues to work, would file a retaliatory claim because she objected to one of her supervisors sitting in on her training sessions.

The WCJ indicates that the injury was not reported until February 22, 2025, but this is contradicted by the record. There is testimony from both Applicant and her supervisors that she reported the injury as part of an email within a day of the incident. No claim form was provided to Applicant at that time, and the testimony of both supervisors indicates that they did not take it seriously.

The WCJ's consideration of whether Ms. Williams was Applicant's friend or just a "colleague" seems to be off base, since there was no evidence that Applicant considered Ms. Williams to be a friend, nor any explanation of how that relationship would lead to the conclusion that Ms. Williams had committed perjury.

Ultimately, while Applicant's apparently poor memory and alleged hostility can raise the issue of credibility, any doubts regarding the occurrence of the alleged mechanism of injury in this case should be outweighed by the fact that Applicant reported the accident the next day on February 9, 2022, as admitted by employer witnesses Mr. Colton and Mr. Lopez, as further confirmed by an employer safety officer, Ms. Williams, and, most significantly, as corroborated by objective evidence in the form of an MRI of August 4, 2022, reviewed by PQME Dr. Lee, revealing a meniscus tear along with extensive degenerative disc disease.

The medical evidence clearly supports a finding of industrial injury. Dr. Lee finds it medically probable that Applicant did injure her knee at work on February 8, 2022, and this appears to be based upon a scientific forensic analysis of evidence that was provided by the parties after sufficient opportunity for discovery. Whether this happened because of a bubble in the flooring material, or the size of that bubble, is immaterial to the submitted issue of injury AOE/COE as long as an injurious movement of applicant's right knee on February 8, 2025 arose out of and in the course of Applicant's work. Dr. Lee concludes that it did in this case, and the evidence adduced by Defendant at trial is insufficient to prove that it did not. The existence of multiple knee injuries

and other conditions is likewise a matter to be addressed by medical expert opinion and not resolved by the mere skepticism of a layperson. In this case, the unopposed medical opinion of the assigned PQME, Dr. Lee, establishes that an aggravation of Applicant's right knee condition, as reported by Applicant to her supervisor on February 9, 2022, occurred arising out of and in the course of employment on February 8, 2022. There is no medical opinion in evidence to suggest otherwise.

For the foregoing reasons,

IT IS ORDERED that reconsideration of the decision of August 15, 2025 is **GRANTED**.

IT IS FURTHER ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the Finding of Fact of August 15, 2025 is **RESCINDED**, and **AMENDED** as follows:

FINDINGS OF FACT

1. Shari Madison, while employed on February 8, 2022, as a behavioral health clinician, Occupational Group Number 112, at Ventura, California, by County of Ventura Behavioral Health, permissibly self-insured and administered by Sedgwick, sustained injury arising out of and in the course of employment to her right knee.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

/s/ JOSEPH V. CAPURRO, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

NOVEMBER 17, 2025

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

SHARI MADISON
JOHNSON SANDHU LLP
KEMPNER & ASSOCIATES, INC.

CWF/*cs*

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