WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA

ARMANDO CONTRERAS, *Applicant*

vs.

WALTER'S WHOLESALE ELECTRIC;
TRAVELERS PROPERTY CASUALTY COMPANY OF AMERICA, *Defendants*

Adjudication Number: ADJ20113933
Santa Ana District Office

OPINION AND ORDER DENYING PETITION FOR RECONSIDERATION

Defendant seeks reconsideration of the Amended Findings of Fact and Award (F&A) issued by the workers' compensation administrative law judge (WCJ) on July 29, 2026. The WCJ found, in relevant part, that while employed by defendant as a forklift operator from March 1, 2024 to July 26, 2024, applicant claims to have sustained injury arising out of and in the course of employment (AOE/COE) to his psyche (stress, anxiety, nervous system). The WCJ further found the events of applicant's employment with defendant to be the predominant cause of applicant's psychiatric injury. However, since the personnel actions that were lawful and nondiscriminatory are 20% of the cause of applicant's industrial psychiatric injury, they do not constitute a substantial cause of the psychiatric injury, and as a result, applicant's claim is not barred by a good-faith personnel action. The WCJ also found applicant is in need of future medical care.

Defendant, in essence, contends the WCJ erred (1) by relying on the report by the panel qualified medical evaluator (QME), Tamanna Shah, Psy.D., which lacks substantial medical evidence; and (2) by applying an impermissibly narrow definition of "personnel action" under Labor Code section 3208.3(h)[1].

We have not received an Answer from applicant.

[1] All section references are to the Labor Code, unless otherwise indicated.

The WCJ issued a Report and Recommendation on Petition for Reconsideration (Report) recommending that the Petition be denied.

We have considered the allegations of defendant's Petition and the contents of the WCJ's Report. Based on our review of the record and for the reasons discussed below, we will deny reconsideration.

FACTS

The WCJ stated the relevant facts in his Opinion as follows:

> The applicant has alleged injury to his nervous system, stress, anxiety, and psych as a result of a continuous trauma injury occurring between March 1, 2024, and July 26, 2024.
>
> As evidence of industrial injury, the applicant submitted the medical report of Dr. Tamanna Shah, Psy.D.
>
> Dr. Shah evaluated the applicant as a qualified medical examiner in psychology.
>
> Dr. Shah diagnosed the applicant with Major Depressive Disorder, anxiety disorder, and cannabis use disorder.[2]
>
> Dr. Shah provides that, within a reasonable medical probability, the events of the workplace were the predominant cause of the psychiatric injury. Specifically, Dr. Shah finds that the applicant reported no issues at work until his transfer to the wire department.
>
> After that time, he experienced ongoing harassment from coworkers and supervisors.
>
> Based on the medical reporting of the Qualified Medical Examiner, Dr. Shah, the Court finds that the events of employment are the predominant cause of the applicant's psychiatric injury.
>
> Having determined that the events of employment are the predominant cause of the applicant's psychiatric injury, it must be determined if those events are personnel actions and, if so, were those personnel actions lawful, nondiscriminatory, and made in good faith.
>
> If any of the personnel actions were lawful, nondiscriminatory, and made in good faith, then it must be determined if those personnel actions were a substantial cause of the psychiatric injury.

[2] APPLICANT'S 2: QME report of Dr. Tamanna Shah, 9-15-2025. Page 21

The events Dr. Shah believed resulted in the applicant's psychological injury were broken down as follows:

1. 15% to the reported childish teasing that eventually escalated into malicious behavior, including coworkers deliberately removing equipment from his machine, making derogatory comments about his IBS symptoms, and circulating rumors and images related to his affair. The applicant reported that both supervisors and coworkers were labeling him with slurs such as "pedophile" and "serial killer," and were making remarks about his genitals.

2. 5% to the write-up he received, for mistakes he believed others made but were not written up.

3. 20% was attributed to the confrontation with his coworker, who was his supervisor's brother. His supervisor got in his face and challenged him "to go outside right now." His supervisor was transferred, but the incident left him anxious.

4. 5% to a second write-up, for a mistake in the production sequence.

5. 10% to perceived contradictory instructions and additional workload.

6. 10% to a third write-up for insubordination.

7. 25% to his efforts to work collaboratively with the drivers, which were met with hostility and additional targeting from his supervisor.

8. 5% to the ongoing affair with his roommate's girlfriend that involved current and former coworkers.

9. 5% to his history of depression with treatment at 19 and the onset of thoughts of suicide at age 24 or 25.

A personnel action is conduct attributable to management in managing its business, including actions taken by one in authority to review, criticize, demote, transfer, or discipline an employee in good faith. However, the term "personnel action" was not intended to cover all actions by any level of personnel in the employment situation, or all happenings in the workplace, that are done in good faith.[3]

Dr. Shah provides that 5% of the cause of the applicant's psychological injury is attributed to the ongoing affair and 5% to his history of depression, with treatment for a total of 10% to nonindustrial events.

[3] Larch v. Contra Costa County, 63 Cal. Comp. Cases 831; 1998 Cal.Wrk. Comp. LEXIS 4762

Of the events identified by Dr. Shah that contributed to the applicant's psychological injury, three are write-ups the applicant received for mistakes. These three write-ups equate to 20%. These three write-ups qualify as "personnel action". As these write-ups were for admitted mistakes, these write-ups would be considered good-faith personnel actions.

Dr. Shah provides 15% of the cause of the applicant's psychological injury is attributed to the work-related teasing/harassment, and 20% the confrontation with co-workers, totaling 30%. The Court finds that these events are not "personnel actions" within the meaning of Labor Code Section 3208.3.

Dr. Shah provides that the remining 35% of the applicant's psychological injury is attributed to his receipt of contradictory instructions and additional work, 10% and 25% to the hostility and additional targeting from his supervisor he received for his efforts to work collaboratively with the drivers.

Based on this definition, the receipt of contradictory instructions and additional work, and the hostility and additional targeting from his supervisor for his efforts to work collaboratively with the drivers, would not be "personnel actions" within the meaning of Labor Code Section 3208.3.

An employer shall pay no compensation for a psychiatric injury if the injury was substantially caused by a lawful, nondiscriminatory, good-faith personnel action. The burden of proof shall rest with the party asserting the issue.[4] "Substantial cause" means at least 35 to 40 percent of the causation from all sources combined.[5]

Based on the medical reporting of the Qualified Medical Examiner, Dr. Shah, 20% of the applicant's psychiatric injury was caused by personnel actions that were lawful, nondiscriminatory, and made in good faith.

The remaining 70% of causation was due to the stress the applicant experienced from his work environment and from performing his job duties.

The Court finds that good-faith personnel actions did not substantially cause the applicant's psychiatric injury.

As such, the applicant's claim is not barred by a good-faith personnel actions defense.

(Opinion, at pp. 3-6.)

[4] Cal Lab Code § 3208.3(h)
[5] Cal Lab Code § 3208.3(b)(3)

DISCUSSION

I.

Petitions for reconsideration filed on or after July 14, 2026 are subject to section 5909, which states 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 September 1, 2026 and 60 days from the date of transmission is Saturday, October 31, 2026. The next business day that is 60 days from the date of transmission is Monday, November 2, 2026. (See Cal. Code Regs., tit. 8, § 10600(b).)[6] This decision is issued by or on Monday, November 2, 2026, 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 act on a petition. Section 5909(b)(2) provides that service of the Report shall be notice of transmission.

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[6] 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.

Here, according to the proof of service for the Report, the Report was served on September 1, 2026, and the case was transmitted to the Appeals Board on September 1, 2026. 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 September 1, 2026.

II.

The Report responds to the contentions of the Petition and explains the basis for the Findings as follows:

OPINION OF PANEL QUALIFIED MEDICAL EVALUATOR TAMANNA SHAH
MMPI-3 validity findings

> The defendant asserts that Dr. Shah's Own MMPI-3 validity findings affirmatively undermine the reliability of her causation and severity conclusions.
>
> Dr. Shah found the applicant's credibility to be fair, as he was guarded and there were notable inconsistencies between his self-report and the record. Dr. Shah noted that he appeared to minimize his psychiatric history, as despite endorsing a history of depression and psychotropic medication, he often attributed previous issues to just "general depression." Dr. Shah provided that, lending to his credibility, the applicant's reporting was consistent with the work-related psychological distress demonstrated in the evaluation.[7]
>
> Dr. Shah reported that the applicant's approach to the MMPI-3 items was somewhat inconsistent. The applicant endorsed items in a pattern that suggested a larger-than-average number of infrequent responses. Dr. Shah noted that with some history of depression, this level of infrequent responding may be genuine.[8]
>
> Dr. Shah stated that, consistent with her interview, the applicant's testing creates concerning symptoms regarding suicidal ideation and appeared preoccupied with death and suicide and is at risk for attempting suicide or self-harm.[9]
>
> Where issues exist regarding diagnosis, prognosis, or treatment that are beyond the bounds of ordinary knowledge, medical proof is required.[10] When deciding a

[7] APPLICANT'S 2: QME report of Dr. Tamanna Shah, 9-15-2025.Page 21, paragraph "*Credibility of the Applicant"*

[8] APPLICANT'S 2: QME report of Dr. Tamanna Shah, 9-15-2025.Page 21, paragraph "*Interpretation of Psychometric Testing"*

[9] APPLICANT'S 2: QME report of Dr. Tamanna Shah, 9-15-2025.Page 21, paragraph "*Interpretation of Psychometric Testing"*

[10] Bstandig v. Workers' Comp. Appeals Bd. (1977) 68 Cal.App.3d 988, 996 [42 Cal.Comp.Cases 114].

medical issue, a WCJ cannot disregard a medical expert's conclusion when the conclusion is based on expertise in evaluating the significance of medical facts.[11]

Dr. Shah acknowledges that the applicant's credibility is only fair but stated that the questionable credibility and inconsistent testing are consistent with a history of depression. Dr. Shah, as the medical expert, upon evaluating the applicant, speaking with the applicant, and considering the applicant's medical history and psychological testing, stated that the inconsistent testing was not inconsistent with the applicant's history and reporting.
Dr. Shah further stated that the inconsistent testing raised concerns about the applicant's emotional state and that the applicant "is at risk for attempting suicide or self-harm."[12]

As such, Dr. Shah's MMPI-3 validity findings do not affirmatively undermine the reliability of her causation and severity conclusions, as those MMPI-3 Validity Findings are one of the bases that Dr. Shah relied on in determining that the applicant was suffering from depression and anxiety.

GAF Score And Functional Findings

The defendant asserts that the GAF of 48 is irreconcilable with Dr. Shah's own functional findings.

Dr. Shah states that the applicant reports experiencing daily depressed and anxious mood, weekly crying spells, anhedonia, irritability, diminished interest in sex, worry, and feelings of worthlessness. Dr. Shah states that while the applicant's functioning is in the moderate range, his ongoing suicidal and persecutory ideation intensifies his clinical functioning to the severe range.[13]

Dr. Shah states that while the applicant's functional impairment appears more moderate because he is able to take care of his activities of daily living, spend time with family, and engage in activities, and is not completely isolating himself, the symptoms of paranoia and SI are severe.[14]

Dr. Shah states that the applicant is currently working full time; however, Dr. Shah, in her discussion of the appropriate GAF score, states that the applicant has quit multiple jobs since he left Walter's, indicating that employers and coworkers are treating him differently due to his mental health issues and workers' compensation treatment.

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[11] E.L. Yeager Construction v. Workers' Comp. Appeals Bd. (Gatten) (2006)145 Cal.App.4th 922 [71 Cal.Comp.Cases 1687]; Insurance Company of North America v. Workers' Comp. Appeals Bd. (Kemp) (1981) 122 Cal.App.3d 905 [46 Cal.Comp.Cases 913]

[12] APPLICANT'S 2: QME report of Dr. Tamanna Shah, 9-15-2025.Page 21, paragraph "*Interpretation of Psychometric Testing"*

[13] APPLICANT'S 2: QME report of Dr. Tamanna Shah, 9-15-2025.Page 21, paragraph 4

[14] APPLICANT'S 2: QME report of Dr. Tamanna Shah, 9-15-2025.Page 21, paragraph 4

Dr. Shah states that, taking the lower of the two scores based on symptoms and on functioning, his GAF falls in the severe range.

In explaining her GAF score determination, Dr. Shah states that a GAF score in the 51-60 range would not be appropriate because the applicant's symptoms are more significant than moderate, including his persistent depressive symptoms with thoughts of suicide and paranoia. Furthermore, a GAF in the 31-40 range is not appropriate because, while the applicant is experiencing psychiatric symptoms, he is able to communicate effectively and is functioning at an adequate level.[15]

Dr. Shah does not base her GAF score on the applicant's functional findings but on his paranoia and suicidal ideation.

As Dr.Shah's GAF score is based on the applicant's thoughts of suicide and paranoia and not on the functional findings, the applicant's functional findings are not irreconcilable with Dr. Shah's GAF score finding of 48.

Credibility Assessment

The defendant asserts that Dr. Shah's credibility assessment of the applicant independently undermines the report's evidentiary value.

Dr. Shah acknowledges that the applicant's credibility is only fair; however, she stated that the applicant's questionable credibility and inconsistent testing were consistent with a history of depression.

Dr. Shah found that the applicant was guarded and inconsistent in his self-reporting and the record.[16] Dr. Shah further stated that though the applicant's approach to the MMPI-3 was somewhat inconsistent, with the history of depression, the level of infrequent responding could be considered genuine.[17] Dr. Shah stated that the inconsistent testing raised concerns about the applicant's emotional state and that the applicant "is at risk for attempting suicide or self-harm".[18]

As previously stated, when deciding a medical issue, a WCJ cannot disregard a medical expert's conclusion when the conclusion is based on expertise in evaluating the significance of medical facts.[19]

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[15] APPLICANT'S 2: QME report of Dr. Tamanna Shah, 9-15-2025.Page 26, paragraph 1

[16] APPLICANT'S 2: QME report of Dr. Tamanna Shah, 9-15-2025.Page 21, paragraph "*Credibility of the Applicant"*

[17] APPLICANT'S 2: QME report of Dr. Tamanna Shah, 9-15-2025.Page 21, paragraph "*Interpretation of Psychometric Testing"*

[18] APPLICANT'S 2: QME report of Dr. Tamanna Shah, 9-15-2025.Page 21, paragraph "*Interpretation of Psychometric Testing"*

[19] E.L. Yeager Construction v. Workers' Comp. Appeals Bd. (Gatten) (2006)145 Cal.App.4th 922 [71 Cal.Comp.Cases 1687]; Insurance Company of North America v. Workers' Comp. Appeals Bd. (Kemp) (1981) 122 Cal.App.3d 905 [46 Cal.Comp.Cases 913]

Dr. Shah, as the medical expert, upon evaluating the applicant, speaking with the applicant, and considering the applicant's medical history and psychological testing, stated that the inconsistent testing was not inconsistent with the applicant's history and reporting.

Dr. Shah did not ignore or discount the applicant's credibility but provided her reasoned opinion that, given the applicant's past psychological history, the credibility assessment was indicative of the applicant's current psychological issues.

As such, Dr. Shah's credibility assessment does not undermine the report's evidentiary value, as that credibility assessment was one of the factors that Dr. Shah relied on in determining that the applicant was suffering from depression and anxiety.

Severity Conclusions

The defendant asserts that Dr. Shah's severity conclusions conflict materially with consistent treating physician findings, and the workers' compensation judge did not address this conflict**.**

Dr, Shah stated that Dr. Norma Yacoub issued a May 15, 2025, report diagnosing the applicant with generalized anxiety disorder and major depressive disorder, recurrent, moderate. Though the applicant endorsed suicidal ideation but denied having a plan, Dr. Yacoub assigned the applicant a GAF score of 64, which fell within the mild range. However, at the time of Dr. Shah's evaluation, the applicant had stopped attending therapy sessions and, according to Dr. Shah, had become more hopeless about treatment after the limited amount offered and lack of follow-up regarding remote sessions. As a result, Dr. Shah stated that the applicant had an increase in symptoms, including suicidality and paranoia. As such, the applicant's GAF score fell into the severe range.[20]

A discrepancy between the findings of one physician and another does not necessarily invalidate either or both reports.

Dr. Shah acknowledges Dr. Yacoub's GAF score and provides a reasoned opinion as to why the applicant's current GAF score is higher.

The Undersigned Judge found Dr. Shah's reasoning credible. As such, the Undersigned Judge found Dr. Shah's reporting to be substantial evidence.

Dr. Shah's Report as Substantial Evidence

The defendant asserts that without Dr. Shah's report as substantial evidence, the applicant has failed his burden of proof and the claim must be dismissed.

[20] APPLICANT'S 2: QME report of Dr. Tamanna Shah, 9-15-2025.Page 26, paragraph 2

In reviewing Dr. Shah's medical report, it is noted that Dr. Shah addresses the reasons for the difference between the primary care physician's assessment and her own. Dr. Shah further addresses the applicant's credibility issues and their effect on her diagnosis and impairment assessment.

Dr. Shah reviewed the applicant's medical history and psychological testing and interviewed the applicant. Upon doing so, Dr. Shah issued a reasoned and complete expert medical opinion as to the applicant's injuries and their cause.

As such, Dr. Shah's reporting is substantial evidence upon which the Undersigned Judge was reasonable in relying on when making his determination on the issue of causation.

DEFINITION OF "PERSONNEL ACTION"

Defendant asserts that the Undersigned Judge impermissibly utilized a narrow definition of personnel action in determining if personnel action was a predominant cause of the applicant's psychological injury.

The events that Defendant specifically identifies as inappropriately misidentified by the undersigned Judge are (1) Supervisor Dee's assignment of contradictory instructions and additional workload (10%), and (2) Supervisor Dee's response to the applicant's job performance efforts (25%).

The undersigned Judge has reviewed his findings of fact and opinion on the decision and acknowledges that there is a misstatement in his opinion on the decision and a missing finding of fact. However, this misstatement in the opinion on the decision and missing finding of fact do not alter the ultimate finding of compensability.

The Undersigned Judge provided in his Opinion on Decision that the contradictory instructions and additional work, and the hostility and additional targeting from his supervisor for his efforts to work collaboratively with the drivers, would not be "personnel actions" within the meaning of Labor Code Section 3208.3.

This was a misstatement of the findings by the Undersigned Judge. The Undersigned Judge agrees that the assignment of work duties and direction of work conduct are "personnel actions". However, this determination is not dispositive of a finding of compensability.

California Labor Code § 3208.3 (h) provides that "[n]o compensation under this division shall be paid by an employer for a psychiatric injury if the injury was substantially caused by a **lawful, nondiscriminatory, good faith** personnel action" (emphasis added).

As such, not only do the actions have to be personnel actions, they have to be lawful, nondiscriminatory, and in good faith.

California Labor Code § 3208.3(h) further provides that the burden of proof shall rest with the party asserting the issue. As such, it was the defendant's burden of proof to establish that these personnel actions were lawful, nondiscriminatory, and in good faith.

It was uncontroverted that the applicant's supervisors participated in harassing the applicant, labeling him with slurs such as "pedophile" and "serial killer," and making remarks about his genitals.[21] This undisputed fact colors the lens upon which all other actions must be viewed.

Given the harassment the applicant was subjected to, the assignment of contradictory assignments by the individual believed to be participating in the harassment, without explanation or justification, cannot be found to have been lawful, nondiscriminatory, or in good faith, personnel actions.

No evidence was provided to explain or justify the contradictory assignments. As such, the action was not a lawful, nondiscriminatory, or in good faith personnel action within the meaning of California Labor Code § 3208.3.

As to the hostility associated with the applicant's efforts to work collaboratively with the drivers, it was stated that the applicant's supervisor advised the applicant's fellow employees that the applicant would be transferred to another department and that things were going to back to normal.[22]

The applicant reported to Dr. Shah that he, a forklift operator, was attempting to improve his relationships with drivers and loaders to assist in meeting their quotas. He stated that his efforts were met with hostility and further targeting from his supervisor.

The applicant was confronted by his supervisor, who stated, "You're not Superman; I'm the only Superman here. You're doing too much. You don't need to be worried about this."[23]

No evidence was submitted that the applicant was working outside his scope of work or engaging in inappropriate conduct. As such, on their face, the actions appear to be intended to undermine the applicant's relationships with fellow employees and were not done in good faith.

Viewed through the lens of a supervisor participating in the applicant's harassment, this interaction cannot be assumed to be in good faith.

As such, the action was not a lawful, nondiscriminatory, or in good faith personnel action within the meaning of California Labor Code § 3208.3.

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[21] APPLICANT'S 2: QME report of Dr. Tamanna Shah, 9-15-2025.Page 6, paragraph 1

[22] APPLICANT'S 2: QME report of Dr. Tamanna Shah, 9-15-2025.Page 7, paragraph 4

[23] APPLICANT'S 2: QME report of Dr. Tamanna Shah, 9-15-2025.Page 7, paragraph 4

Based on the above, Mr. Dee's assignment of contradictory instructions and additional workload and Mr. Dee's response to the applicant's job performance efforts were not lawful, nondiscriminatory, and in good faith and, as such, are not personnel actions within the meaning of California Labor Code § 3208.3.

(Report, at pp. 2-8.)

Accordingly, we deny the Petition for Reconsideration.

For the foregoing reasons,

IT IS ORDERED that the Petition for Reconsideration is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ PAUL F. KELLY, COMMISSIONER

/s/ KATHERINE A. ZALEWSKI, CHAIR

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

November 2, 2026

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

ARMANDO CONTRERAS
CHEN NOWZARI
DIMACULANGAN & ASSOCIATES

JL/abs

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