WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

STEVEN FIELD, *Applicant*

vs.

POBA LOGISTICS, LLC, doing business as POBA COURIER, uninsured; UNINSURED EMPLOYERS BENEFITS TRUST FUND, *Defendants*

Adjudication Number: ADJ8775554
San Bernardino District Office

OPINION AND ORDER GRANTING PETITION FOR RECONSIDERATION AND DECISION AFTER RECONSIDERATION

Applicant seeks reconsideration of the Findings of Fact (Findings) issued on January 12, 2026, by the workers' compensation administrative law judge (WCJ). By the Findings, as relevant here, the WCJ found that though applicant was found to be defendant's employee, applicant did not meet his burden of proving injury arising out of and occurring in the course of employment (AOE/COE). As a result, the WCJ ordered that applicant take nothing in connection with his Application for Adjudication.

Applicant alleges the WCJ erred in finding applicant did not meet his burden in proving AOE/COE.

We have not received an answer from defendant. The WCJ issued a Report and Recommendation on Petition for Reconsideration (Report) recommending that the Petition for Reconsideration be denied.

We have considered the allegations of the Petition for Reconsideration and the contents of the Report of the WCJ with respect thereto. Based on our review of the record, and for the reasons discussed below, we will grant reconsideration, rescind the Findings, and substitute new findings of fact that applicant sustained injury AOE/COE while employed by POBA Logistics, LLC, doing business as POBA Courier (POBA).

FACTS

We will review the relevant facts.

Applicant initially filed an Application for Adjudication on February 12, 2013 claiming to have sustained injury on March 27, 2012, AOE/COE as a courier for defendant POBA. Applicant alleged injury in the nature of neurologic, lumbar spine, vision, psyche, facial scarring, both hands, both arms, chest, and urinary system.

An attempt to join defendant, Uninsured Employers Benefit Trust Fund (UEBTF), as a party was first made on August 21, 2013 over UEBTF's objection. UEBTF was officially joined as a party on September 5, 2018.

The matter was initially heard and submitted for decision on May 7, 2025. At the trial, no appearance was made for defendant employer, POBA. Facts admitted included that at the time of injury POBA was uninsured, POBA paid no benefits, and POBA furnished no medical treatment. (Minutes of Hearing and Summary of Evidence (MOH), May 7, 2025, lines 9-11.)

Exhibits admitted into evidence at the May 7, 2025 trial included an agreed medical evaluation (AME) report and deposition of Jeffrey Berman, M.D. (App. Exh. 1, AME Report of Dr. Berman, August 8, 2019; App. Exh. 2, Deposition Transcript of AME Dr. Berman, June 25, 2020.). Dr. Berman's AME report reflects he took applicant's history, conducted a physical examination, and reviewed approximately 1,300 pages of records. (App. Exh. 1, AME Report of Dr. Berman, August 8, 2019, pp. 2-42; see, p. 43, ¶ 4.) Although applicant's medical records were not independently offered into evidence, Dr. Berman provided a comprehensive record review detailing an extensive history of back pain dating to at least March 2009. (App. Exh. 1, AME Report of Dr. Berman, August 8, 2019, pp. 6-42.) Further, as early as April 2012, Dr. Berman's record review documented several references to applicant's March 2012 motor vehicle accident, including the following:

> "April 11, 2012, anesthesiology note, Dr. Lee, Loma Linda HSC. History: . . . [T]he patient had a car accident two weeks ago with side impact from the right, and the patient has right bone hematoma iliac crest; the patient rates the pain as 8/10, which is constant down back and intermittent down ·leg; the quality of the pain is described as sharp in the back, associated with intermittent numbness and tingling in the lateral two toes on the left; radiation to the left lower extremity in the posterior aspect to heel and with numbness and tingling on lateral side of foot; aggravating factors include movement, twisting, and bending; alleviating factors include heat, lying flat, and lying on side with bodypillow." (App. Exh. 1, AME Report of Dr. Berman, August 8, 2019, p. 14, ¶ 4.)

> "April 23, 2012, internal medicine note, James J. Huang, Loma Linda HCS. Current complaints: The patient was involved in a serious car accident three weeks ago and passed out afterwards; the patient is now with declining memory and difficulty with speech and persistent headaches; prior CT scan in private emergency room was unremarkable per family; the patient was told he may have concussion syndrome." (App. Exh. 1, AME Report of Dr. Berman, August 8, 2019, p. 15, ¶ 2.)

> "May 22, 2012, neurology note, Dr. Sherzai, Loma Linda HCS. Current complaints: Current symptoms include forgetfulness, arid the patient repeats statements, stories, and questions, as well as loses things around the home, has difficulty finding words, forgets activities and appointments, forgets plans, loses train of thought, gets frustrated, and now the patient has difficulty with even some familiar directions; the patient is more obstinate and argumentative and there is anxiety and depression, along with the patient having some difficulty with making decisions around the home; the patient now has difficulty with family members' names. Diagnosis: The history, exam, imaging, and neuropsychological testing are suggestive of -mild cognitive impairment related to concussion (post concussive); improving; exacerbated by depression, anxiety, and ADHD." (App. Exh. 1, AME Report of Dr. Berman, August 8, 2019, p. 15, ¶ 4-p. 16, ¶ 1.)

Dr. Berman also identified a September 24, 2014 new patient care appointment with Asma M. Kazi, Loma Linda HSC with the following history: "Date of injury is March 2012; vet has had a motor vehicle accident in March 2012, while working and had head trauma with loss of consciousness for a few minutes, and since then has reported stuttering of speech and memory problems which are slowly worsening." (App. Exh. 1, AME Report of Dr. Berman, August 8, 2019, p. 28, ¶ 5-p. 29, ¶ 1.)

In Dr. Berman's AME report, he indicated, "[w]ith regards to causation, this is industrial. He did sustain a very serious accident with an onset of complaints that included the lower back and radicular involvement." (App. Exh. 1, AME Report of Dr. Berman, August 8, 2019, p. 46, ¶ 5.)

Also admitted into evidence at the May 7, 2025 trial were two AME reports and the deposition of Kenneth Nudleman, M.D. (App. Exh. 3, AME Report of Dr. Nudleman, November 17, 2021; App. Exh. 4, AME Report of Dr. Nudleman, April 16, 2022; App. Exh. 5, Deposition Transcript of AME Dr. Nudleman, October 18, 2022.) Dr. Nudleman described applicant's injury as industrial. (App. Exh. 4, AME Report of Dr. Nudleman, April 16, 2022, p. 7, ¶ 2.)

Applicant testified on his own behalf at the May 7, 2025 trial, and no other witnesses were called by any party. Applicant testified as follows regarding his employment with POBA and the circumstances of his alleged injury:

> Applicant was working at POBA Logistics Courier service in March of 2012, as a general courier. His position involved picking up samples from the veterinarian office and taking them to the labs where they run the tests. He would also take documents from one title company to another.
>
> He was in an accident while working for POBA Logistics on March 27, 2012. The rear axle of his car broke causing his car to fishtail. His car ended up sideways across the two-lane highway and a large laundry truck t-boned his car. Applicant states that if the truck had not hit him, he would have gone off the over 300-foot-high cliff.
>
> POBA Logistics gave him paychecks for his work. He did not remember how much he was making,[sic] but guessed it was $10 or $12 an hour. Applicant did not return to work for POBA Logistics after the date of injury.
>
> After the accident, Applicant was taken by ambulance to Loma Linda hospital. He did not stay overnight at the hospital, but he was there late.
>
> Applicant's ex-wife told Ellen, his supervisor at POBA Logistics that he was in an accident and that they needed to get their stuff out of Applicant's car.
>
> He used his own vehicle to courier. POBA did not pay for his gas. He does not recall how long he had been working for them prior to the accident, but said it was over a year, as he worked two winters.
>
> POBA set the routes that drivers would take. Sometimes he would switch routes with other drivers.
>
> Applicant was injured as a result of the car accident he was in while working for POBA. He testified that he injured his head. He lost a lot of memory, has trouble concentrating and thinking. Applicant has difficulty with speech. He also injured his back and his bladder. Applicant gets horrible migraines and dizziness. Applicant has been receiving treatment at the VA for this work injury. The VA is going to refer him to a neurologist.

(MOH, May 7, 2025, p. 3, line 25-p. 4, line 21.)

> On cross-examination, applicant testified as follows:
>
> Applicant was in the middle of transporting something for POBA when he was in the accident. He does not recall what he was transporting when he was injured, as it is different every day. He usually transported documents for title companies to and from San Bernardino and Lake Arrowhead. He also collected blood samples

> from the veterinary center and outpatient doctors and took them to a driver who delivered them to the labs to get analyzed.
>
> Applicant did not stay in the hospital for days after the accident. He was released from the hospital after hours. Applicant was not present when his ex-wife talked to his supervisor at POBA. He thinks she talked to them over the phone, but he was unconscious or mentally not there. His ex-wife told him that she called the supervisor.

(MOH, May 7, 2025, p. 5, lines 22-25.)

Applicant also acknowledged that the only documents he had to show that he worked for POBA were his paystubs (App. Exh. 7). (MOH, May 7, 2025, p. 6, lines 3-4.)

The WCJ issued a Findings and Order on June 27, 2025, concluding applicant was an employee of POBA during the period of March 1, 2012, through April 2012. All other issues raised, including AOE/COE, were deferred pending further development of the record. In the Opinion on Decision, the WCJ noted that employment was found "based on the evidence offered, including credible testimony from applicant." (Opinion on Decision, June 27, 2025, p. 2, ¶ 1.)

The parties proceeded to a subsequent trial on November 19, 2025 to address the outstanding issues of AOE/COE, body parts injured, and attorney's fees. No testimony was taken and the matter was re-submitted.

Exhibits admitted into evidence at the November 19, 2025 trial included a letter from John Bandak of POBA to applicant's attorney dated March 22, 2013 (App. Exh. 9), EDD Notice of Service/Request for Medical records dated December 16, 2024 (App. Exh. 10), a traffic collision report dated April 12, 2012 regarding the March 27, 2012 incident (App. Exh. 11), and a letter to Mr. Bandak from applicant's attorney dated February 12, 2013 (App Exh. 12).

On January 12, 2026, the WCJ issued the Findings that are the subject of the Petition for Reconsideration herein.

On February 2, 2026, defendant sought reconsideration of the Findings.

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 February 17, 2026 and 60 days from the date of transmission is Saturday, April 18, 2026. The next business day that is 60 days from the date of transmission is Monday, April 20, 2026. (See Cal. Code Regs., tit. 8, § 10600(b).)[1] This decision is issued by or on Monday, April 20, 2026, 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 February 17, 2026, and the case

[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.

was transmitted to the Appeals Board on February 17, 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 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 February 17, 2026.

II.

California has a no-fault workers' compensation system. With few exceptions, all California employers are liable for the compensation provided by the system to employees injured or disabled in the course of and arising out of their employment, "irrespective of the fault of either party." (Cal. Const., art. XIV, § 4.) The protective goal of California's no-fault workers' compensation legislation is manifested "by defining 'employment' broadly in terms of 'service to an employer' and by including a general presumption that any person 'in service to another' is a covered 'employee.'" (Lab. Code, §§ 3351, 5705(a); *S. G. Borello & Sons, Inc. v. Department of Industrial Relations* (1989) 48 Cal.3d 341, 354 [54 Cal.Comp.Cases 80.)

Pursuant to Labor Code section 3600, to be compensable, an injury must arise out of and occur in the course of employment. (Lab. Code, § 3600(a)(2).) The determination of whether an injury "arises out of and in the course of employment" requires a two-prong analysis. (*LaTourette v. Workers' Comp. Appeals Bd.* (1998) 17 Cal.4th 644 [63 Cal.Comp.Cases 253].)

Under the first prong, the injury must occur "in the course of employment," which ordinarily "refers to the time, place, and circumstances under which the injury occurs." (*Id.* at p. 256.) An employee is acting within "the course of employment" when "he does those reasonable things which his contract with his employment expressly or impliedly permits him to do." (*Id.*) In other words, if the employment places an applicant in a location and they were engaged in an activity reasonably attributable to employment or incidental thereto, an applicant will be in the course of employment and the injury may be industrially related. (*Western Greyhound Lines v. Industrial. Acc. Com.* (*Brooks*) (1964) 225 Cal.App.2d 517 [29 Cal.Comp.Cases 43].)

The second prong requires that the injury "arise out of" the employment, "that is, occur by reason of a condition or incident of employment." (*Employers Mutual Liability Ins. Co. of Wisconsin v. Industrial Acc. Com.* (*Gideon*) (1953) 41 Cal.2d 676 [18 Cal.Comp.Cases 286].) "[T]he employment and the injury must be linked in some causal fashion," but such connection

need not be the sole cause, it is sufficient if it is a "contributory cause." (*Maher v. Workers' Comp. Appeals Bd.* (1983) 33 Cal.3d 729 [48 Cal.Comp.Cases 326].)

Although it is the employee's burden to demonstrate by a preponderance of the evidence that they sustained a compensable injury, the concept of what constitutes a work-related injury is broad. (*South Coast Framing v. Workers' Comp. Appeals Bd. (Clark)* (2015) 61 Cal.4th 291, 297-298, 302 [80 Cal.Comp.Cases 489]; Lab. Code, §§ 3600(a), 3202.5.) The determination of whether an injury arises out of and in the course of employment is based on "criteria" that are "fluid," and "must therefore be decided on the facts peculiar to each case." (*Westbrooks v. Workers' Comp. Appeals Bd.* (1988) 203 Cal.App.3d 249 [53 Cal.Comp.Cases 157]; see also, *LaTourette*, *supra*, at pp. 651-652.) If we look for a causal connection between the employment and the injury, such connection need not be the sole cause; it is sufficient if it is a contributory cause. (*Gideon, supra*, at 680; *Maher, supra*, at p. 736; *Madin v. Industrial Acc. Com.* (1956) 46 Cal. 2d 90, 92–93 [21 Cal. Comp. Cases 49].) "All that is required is that the employment be one of the contributing causes without which the injury would not have occurred." (*Clark*, supra at 297–298, quoting *LaTourette, supra*, at 651, fn. 1; *Maher, supra*, at 734, fn. 3.) "[A]ll reasonable doubts as to whether an injury arose out of employment are to be resolved in favor of the employee [citation]." (*Lundberg v. Workmen's Comp. App. Bd.* (1968) 69 Cal.2d 436, 439 [33 Cal.Comp.Cases 656]; *Garza v. Workmen's Comp. Appeals Bd.* (1970) 3 Cal.3d 312, 317 [35 Cal.Comp.Cases 500].), (emphasis added).) Further, "[a]n award based solely upon conjectural evidence cannot be sustained[, and] … the denial of compensation benefits cannot rest upon the board's mere suspicion or surmise." (*Id*. at p. 319, citation omitted.)

The issue before us is whether applicant met his burden of proof that he sustained injury AOE/COE. In finding applicant did not meet his burden in proving AOE/COE, the WCJ stated in the Opinion on Decision that, "While there is solid evidence that applicant was involved in a motor vehicle accident on March 27, 2012, there is no persuasive evidence that applicant was placed in a location or doing an activity reasonably attributable to his employment or for the benefit of his employer at the time of the injury." (Opinion on Decision, January 12, 2026, p. 4, ¶ 2.) In reaching this conclusion, the WCJ cited to the following evidence:

1. "Applicant did not recall any corroborative details regarding the date of injury including the location he was going to or the items he was transporting. Further, no information was provided about how often he worked, his usual days or hours of work. The sole connection between the motor vehicle accident, and his

employment with POBA is applicant's vague testimony that he was transporting "something" for POBA on the day of the March 27, 2012, motor vehicle accident." (Opinion on Decision, January 12, 2026, p. 3, ¶ 5-p. 4, ¶ 1.)

2. As to the EDD form [App. Exh. 10], the WCJ stated, "Review of the doctor's certificate shows that the certifying doctor, James Huang, marked the "no" box in response to question 53: "BASED ON YOUR EXAMINATION OF PATIENT, IS THIS DISABILITY THE RESULT OF "OCCUPATION" EITHER AS AN 'INDUSTRIAL ACCIDENT' OR AS AN "OCCUPATIONAL DISEASE"? (INCLUDE SITUATIONS WHERE PATIENT'S OCCUPATION HAS AGGRAVATED PRE-EXISTING CONDITIONS.)" (Applicant Exhibit 10 page 3.) Considering this notation, the EDD records do not corroborate applicant's claim that the March 27, 2012, motor vehicle accident arose out of or in the course of his employment with POBA." (Opinion on Decision, January 12, 2026, p. 3, ¶ 4.)

3. The letter from Mr. Bandak [App. Exh. 9] "does confirm that the employer was aware that applicant was involved in a motor vehicle accident, [but] it does not provide corroboration that the applicant was in service of his employer at the time of the accident." (Opinion on Decision, January 12, 2026, p. 3, ¶ 3.)

4. "The contents of the police report [App. Exh. 11] does not document any details as to his employment or intended destination at the time of the accident." (Opinion on Decision, January 12, 2026, p. 2, ¶ 4.)

In reaching her conclusions, the WCJ provided the following rationale in the Report:

> The board is free to disbelieve an applicant's testimony, even though it is uncontradicted by other witnesses, if there is a rational reason for doing so and it does not act arbitrarily. Careful cross-examination may be used to challenge an applicant's credibility, which also may be impeached by the medical record. [*Kocalis v. WCAB* (1997) 62 CCC 1299 (writ denied); *Garcia v. WCAB* (2014) 79 CCC 356 (writ denied)]. (*Buczkowski v. Macy's, Inc*., 2025 Cal. Wrk. Comp. P.D. LEXIS 33 at 34-35.)

(Report, February 17, 2026, p. 3, ¶ 3.)

We acknowledge the WCJ's observations with respect to purported inconsistencies in the evidentiary record with respect to the finding of AOE/COE, addressed in more detail below. However, we note that in the May 7, 2025 Opinion on Decision, which provided the rationale for the June 27, 2025 Findings and Order, the WCJ stated, "based on the evidence offered, including *credible testimony from applicant*, the undersigned finds that applicant was an employee of POBA during the period March 1, 2012, through about April 2012." (Opinion on Decision, May 7, 2025, p. 2, ¶ 1, emphasis added.) The WCJ does not reconcile how she found applicant's testimony

credible on employment yet found the same testimony insufficient on AOE/COE. Of note, "the test of substantiality must be measured on the basis of the entire record, rather than by simply isolating evidence which supports the board and ignoring other relevant facts of record which rebut or explain that evidence." (*Garza, supra*, at p. 317; *Le Vesque v. Workers' Comp. Appeals Bd. (1970) 1 Cal.3d 627,* 638-639 *[35 Cal.Comp.Cases 16]*.) As such, based on the foregoing analysis and following our complete and independent review of the entire evidentiary record, we find the existing record is sufficient to find that applicant satisfied his burden by proving AOE/COE by a preponderance of the evidence.

We begin by observing that the WCJ appeared to subject applicant to a higher standard than our jurisprudence requires. While we acknowledge that there is no documentary evidence stating applicant was working on the date of injury, applicant meets their burden with "evidence that, when weighed with that opposed to it, has more convincing force and the greater probability of truth." (Lab. Code, § 3202.5.) In this case, there is simply no objective reason to reject applicant's unrebutted testimony, and there is *no* evidence showing applicant was *not working* on the date of injury. Where there is a question of fact, as in this case, the absence of evidence does not necessarily disprove that fact. Yet, here, in finding applicant failed to meet his burden, the WCJ drew conclusions based on the absence of evidence rather than relying on objective evidence. On the contrary, applicant provided unrebutted testimony that he was working at the time of injury, with the Application for Adjudication being filed within a year of the injury. Applicant's testimony is consistent with the medical treatment records summarized by AME Dr. Berman in which applicant reported the injury occurred while working, and the assessments of AMEs Dr. Berman and Dr. Nudleman who indicated applicant's injury was industrial. (App. Exh. 1, AME Report of Dr. Berman, August 8, 2019, pp. 2-42; see, p. 28, ¶ 5; App. Exh. 4, AME Report of Dr. Nudleman, April 16, 2022, p. 7, ¶ 2.). Additionally, applicant's testimony is not necessarily inconsistent with the other evidence of record, as discussed below.

Rather than accepting applicant's testimony, which would have been in harmony with the Supreme Court's exhortation that "all reasonable doubts as to whether an injury arose out of employment are to be resolved in favor of the employee" (*Lundberg, supra*, at p. 439), the WCJ did the opposite, and where there was reasonable doubt, the issue was resolved against applicant. In actuality, applicant should have been found to meet his burden, and the burden should have shifted to defendant to rebut applicant's assertion that his injury was AOE/COE. While the

defendant is not under a duty to disprove injury, some testimony or documentation provided by defendant indicating applicant was not working would have been useful. However, defendant offered *nothing* in rebuttal of applicant's recitation of the events on March 27, 2012. No evidence, witnesses, trial brief, or answer to the Petition, despite being involved in this case since at least 2013 and agreeing to AMEs. As a result, applicant's unrebutted testimony should have been found sufficient for a finding of injury AOE/COE.

Next, we address the evidence cited by the WCJ to deny applicant's claim. First, although the WCJ noted applicant "did not recall any corroborative details regarding the date of injury," the WCJ failed to consider extenuating circumstances that may have affected applicant's recollection, including the substantial gap in time of about 14 years since the injury occurred, treatment records reflecting applicant reported memory loss soon after the accident, and evidence by AME Dr. Nudleman that applicant has a post-traumatic head syndrome (App. Exh. 1, AME Report of Dr. Berman, August 8, 2019, p. 15, ¶ 2-p. 16, ¶ 1; App. Exh. 4, AME Report of Dr. Nudleman, April 16, 2022, p. 7, ¶ 4). All of which could certainly account for applicant's memory issues.

Moreover, the documentary evidence cited by the WCJ in support of her opinion is not conclusive of a non-industrial industry. In the Report, among other things, the WCJ considered the "compelling weight" of the EDD disability form in finding applicant's injury was non-industrial. (Report, February 17, 2026, p. 3, ¶ 5.) We find the WCJ placed disproportionate weight on the EDD disability form, and we agree with applicant's contention that the circumstances in which the EDD form was completed are unclear. (Petition, February 2, 2026, p. 4, lines 5-8.) The responses on an EDD form in and of itself are not dispositive of work-relatedness, as a reasonable explanation for the doctor's responses could exist. (See, *Chen v. DTG Operations* (April 14, 2025, ADJ17614232) [2025 Cal. Wrk. Comp. P.D. LEXIS 120][2] (writ den.) [Evidence of an EDD form in which applicant's treating provider checked the box indicating that applicant's complaints were not work-related was not fatal to applicant's claim, as she was afforded the opportunity to testify regarding the circumstances in which the form was completed.])

[2] Unlike en banc decisions, panel decisions are not binding precedent on other Appeals Board panels and WCJs. (See *Gee v. Workers' Comp. Appeals Bd.* (2002) 96 Cal.App.4th 1418, 1425 fn. 6 [67 Cal.Comp.Cases 236].) However, panel decisions are citable authority and we consider these decisions to the extent that we find their reasoning persuasive, particularly on issues of contemporaneous administrative construction of statutory language. (See *Guitron v. Santa Fe Extruders* (2011) 76 Cal.Comp.Cases 228, fn. 7 (Appeals Board en banc); *Griffith v. Workers' Comp. Appeals Bd.* (1989) 209 Cal.App.3d 1260, 1264, fn. 2, [54 Cal.Comp.Cases 145].)

Turning to the letter written by Mr. Bandak (App. Exh. 9), the WCJ found it did not support finding applicant was in the service of his employer at the time of the accident because it did not explicitly state that applicant was working at the time of the accident. (Opinion on Decision, January 12, 2026, p. 3, ¶ 3.) Although this is true, the converse is also true that Mr. Bandak's letter did not deny liability nor claim that applicant was *not* working at the time of the accident. In fact, Mr. Bandak's written statement are reasonably interpreted as accepting some industrial responsibility for applicant's injury. In particular, Mr. Bandak acknowledged he continued to pay applicant while applicant sought medical treatment and was not working, despite the poor financial situation of POBA and Mr. Bandak per Mr. Bandak's letter. (App. Exh. 9, Letter from Mr. Bandak to Applicant's Attorney, March 22, 2013, Nos. 2, 4, 5, 6.) Mr. Bandak wrote that POBA could not afford to pay for workers' compensation coverage, the company was losing money and had no assets, Mr. Bandak personally had no assets, and that Mr. Bandak was essentially on the brink of filing for bankruptcy. (App. Exh. 9, March 22, 2013, Nos. 4, 5, 6.) Mr. Bandak also expressed remorse for applicant's situation and indicated they "have done what we can to help him with this situation." (App. Exh. 9, March 22, 2013, ¶ 2.) Such evidence is inconsistent with a conclusion that applicant's injury was truly non-industrial. Despite this evidence that support finding AOE/COE, the WCJ failed to address these elements of Mr. Bandak's statements and made inferences based on what Mr. Bandak's letter did not say to applicant's detriment.

We also note that without explanation, the WCJ cited to Mr. Bandak's claim that the accident was caused by a malfunction applicant was aware of and neglected to address. (App. Exh. 12, Letter from Mr. Bandak to Applicant's Attorney, March 22, 2013, p. 1, No. 3.) However, we are reminded that liability exists "without regard to negligence . . . against an employer for any injury sustained by his or her employees arising out of and in the course of the employment." (Lab. Code, § 3600(a).)

We concur that the police report "does not document any details as to his employment or intended destination at the time of the accident." (Opinion on Decision, January 12, 2026, p. 2, ¶ 4.) However, we agree with applicant's position that given the circumstances of applicant's injuries, "whether or not it is within the purview of the police officer's reporting responsibilities at the scene of an accident to comment on issues of employment and destination, such an inquiry may simply have appeared inappropriate." (Petition, February 2, 2026, p. 2, lines 14-18.) A police report is not evidence of employment. Besides, applicant was taken from the scene of the accident

to Loma Linda University Medical Center by emergency services, and the officer interviewed applicant at the emergency room (App. Exh. 11, Traffic Collision Report, April 12, 2012 regarding the March 27, 2012 incident, pp. 4; 9, Line 21). The WCJ fails to reconcile how applicant's state post-accident could have had a bearing on the officer's questioning of applicant. A reasonable inference is that the traffic collision report did not include details of applicant's employment or intended destination at the time of the accident because that information was not necessarily relevant to the officer's reporting on the incident. The WCJ unduly draws a conclusion about the traffic collision report based on an absence of information, despite a lack of other corroborating evidence.

In sum, we conclude that applicant met his burden of proving by a preponderance of the evidence that his injury arose out of and in the course of employment. Accordingly, we grant the Petition.

For the foregoing reasons,

IT IS ORDERED that Petition for Reconsideration of the January 12, 2026 Findings of Fact is **GRANTED**.

IT IS FURTHER ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the January 12, 2026 Findings of Fact is **RESCINDED**, with the following **SUBSTITUTED** therefor:

FINDINGS OF FACT

1. Applicant was an employee of POBA Logistics, LLC, doing business as POBA Courier during the period of March 1, 2012, through April 2012.

2. Applicant met his burden to prove injury arising out of and occurring in the course of employment with POBA Logistics, LLC, doing business as POBA Courier on March 27, 2012.

3. All other issues are deferred pending further development of the record, including body parts injured and attorney fees.

ORDER

IT IS HEREBY ORDERED that the parties are to develop the record to address all outstanding issues.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

/s/ CRAIG L. SNELLINGS, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

APRIL 20, 2026

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

STEVEN FIELD
LAW OFFICES OF RICHARD W. SMITH
OFFICE OF THE DIRECTOR – LEGAL UNIT, LOS ANGELES
UNINSURED EMPLOYERS BENEFITS TRUST FUND
BOEHM & ASSOCIATES
LIENING EDGE
MEDICAL LIEN MANAGEMENT
MED LEGAL PHOTOCOPY
EMPLOYMENT DEVELOPMENT DEPARTMENT

DC/*cs*

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