WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

THERESA ROCHA, *Applicant*

vs.

MAS LI, INC., dba MCDONALDS; SAFETY NATIONAL CASUALTY CORPORATION, adjusted by BROADSPIRE, *Defendants*

Adjudication Number: ADJ11672907
Salinas District Office

OPINION AND DECISION AFTER RECONSIDERATION

We previously granted reconsideration to allow us time to further study the factual and legal issues in this case.[1] We now issue our Opinion and Decision After Reconsideration.

Applicant seeks reconsideration of the Findings and Order (F&O) dated June 14, 2022 wherein the workers' compensation administrative law judge (WCJ) found, in relevant part, that applicant did not sustain injury arising out of and occurring in the course of employment (AOE/COE) to her psyche or new and further disability establishing good cause to reopen her case, and is not entitled to a panel Qualified Medical Evaluator (PQME) to address her psyche complaints. The WCJ further held that defendant is not liable for costs related to the April 13, 2021 report prepared by applicant's vocational expert, Frank Diaz.

Applicant contends that the F&O is not based upon substantial medical evidence and that she is entitled to further development of the medical record in the form of a psyche PQME in light of Agreed Medical Evaluator (AME) Steven Feinberg, M.D's diagnosis of a psyche comorbidity and testimony regarding the potential need for a psyche evaluator. (Petition for Reconsideration (Petition), p. 4.) Applicant further contends that in accordance with the cases of *Costa v. Hardy Diagnostics* (2006) 71 Cal.Comp.Cases 1797 (Appeals Bd. en banc) (*Costa I*) and *Costa v. Hardy*

[1] Commissioner Marguerite Sweeney is no longer a member of the Appeals Board and was on the panel issuing the Order Granting Reconsideration in this matter. Another panelist has been substituted in her place.

Diagnostics (2007) 72 Cal.Comp.Cases 1492 (Appeals Bd. en banc) (*Costa II*), the WCJ erred in finding defendant not liable for the cost of Mr. Diaz's report. (*Id*. at p. 5.)

We have received an Answer from defendant. The WCJ prepared a Report and Recommendation on Petition for Reconsideration (Report), recommending that the Petition be denied.

We have considered the contents of the Petition, Answer, and Report, and we have reviewed the record in this matter. For the reasons discussed below, we will rescind the F&O and substitute it with a new F&O which finds good cause for the issuance of a psyche QME panel, liability by defendant for costs related to the April 13, 2021 vocational expert report by Frank Diaz, and defers the issues of injury AOE/COE to the psyche and whether applicant sustained new and further disability thereby establishing good cause to reopen her case.

FACTS

On November 5, 2018, applicant filed an Application for Adjudication of Claim (Application) alleging that while employed by defendant as a cashier on February 14, 2017, she sustained injury AOE/COE to her right ankle and foot.

Thereafter, on August 7, 2019, applicant filed an amended Application listing the left foot and leg. On December 11, 2019, applicant filed another amended Application adding psyche.

The parties proceeded with discovery and retained Dr. Feinberg as the orthopedic AME. Dr. Feinberg evaluated applicant on January 20, 2020, and issued a corresponding report as well as an April 20, 2020 supplemental report. (Exhibits D3-D4.)

In his January 20, 2020 report, Dr. Feinberg confirmed injury AOE/COE to the right ankle and foot, and noted the following with respect to applicant's psyche issues:

> The results of the present assessment suggest that psychological variables may be affecting her experience of pain and treatment response to a moderate to severe degree. Of particular concern are reported symptoms of depression and anxiety. It should be noted that while she provided a valid profile, there were discrepancies observed between the level of anxiety reported on the P-3 and MBMD assessment instruments. She may present with a degree of anxiety that is somewhat typical for pain patients under most circumstances; however under stress or when physical conditions worsen, she may be prone to experiencing increased levels of anxiety. She reported high levels of depression symptoms. This level may impact her experience of pain and response to treatment. Due to vary [sic] levels of anxiety symptoms reported, it is recommended that other clinical data be used in conjunction with the assessment results to determine the level of impairment

> secondary to anxiety. Continued follow up may help decrease exaggerated negative reactions to stressful or invasive medical procedures. Referral to a mental health professional is recommended.
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> (Exhibit D4, p. 11.)

On May 27, 2020, the parties submitted a Stipulations with Request for Award (Stipulations) based upon a forty-six percent (46%) permanent disability to the "right ankle and foot only" per the reports of Dr. Feinberg. (Stipulations, pp. 5, 7.) The WCJ issued a corresponding Award on June 4, 2020.

On August 31, 2020, applicant filed a Petition to Reopen for New and Further Disability (Petition to Reopen).

Dr. Feinberg reevaluated applicant on November 5, 2020, and issued a corresponding report as well as a March 18, 2021 supplemental report. (Exhibits D1-D2.)

On March 11, 2021, Dr. Feinberg was deposed by the parties. During his deposition, he testified, in relevant part, as follows:

> Q: And there is a psychological component of CRPS, is that correct?
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> A: I wouldn't say it that way. I would say that patients who have chronic pain, including CRPS, often are emotionally distressed about it.
>
> Q: Well, I guess that's what I don't understand about the disorder. I mean it's a very weird disorder. I—I mean I had a client once who had a routine carpal tunnel surgery, and her whole arm just blew up like, you know, something that is abnormal. So I guess I don't understand CRPS I always thought there was some sort of psychological component to it, but you're saying that's not exactly true?
>
> A: There's no evidence that because you have a certain psychological makeup that you're going to get CRPS. I do a lot of civil cases. I'm probably the number one guy on the West Coast on CRPS. And you've got to be very careful with this because two—You've been around long enough, even though you're young, to realize that two people with the exact same problem can present totally differently in terms of their perceived disability. And so if you have someone with psychiatric comorbidity, a history of drug abuse, a history of childhood abuse, if they get CRPS they're probably not going to do as well as maybe you or I would do. You or I would probably just keep working, but we'd have the same CRPS [as] this other person has who's a basket case.
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> …
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> Q: So do you think it would be prudent for Ms. Rocha to have the opportunity to receive psychological or psychiatric treatment given the CRPS diagnosis?

A: As part of pain management I do.

…

Q: Can you remind me of your permanent work restrictions that you gave Ms. Rocha?

A: I mentioned sedentary work with minimum weight-bearing and allowance of use of an assistive device.

Q: Okay. Should she avoid bending?

A: Well, basically she needs to avoid anything that torques her back and pulls those wires out. So she can't play professional football or run. She should avoid excessive bending. That's certainly true.

Q: Okay. And should she avoid excessive kneeling and twisting?

A: I don't see her kneeling in a work environment or, you know, doing any excessive twisting.

Q: So no kneeling and no excessive twisting?

A: That's true.

Q: Do you think she would be off task for a certain percentage of the day due to pain?

A: Give me a moment to answer that question, please. I think we would have to get some input from a psychiatric evaluator, but I have a feeling that even though her pain is more manageable, she – given the way she presents herself and her difficulties sleeping, and her emotional state, I think – you know – she might well have trouble, you know, eight hours a day, five days a week.

(Exhibit X, pp. 9:14-10:19, 12:16-19, 13:5-14:6.)

Following Dr. Feinberg's deposition, applicant was evaluated by Mr. Diaz on March 24, 2021, who issued a corresponding report. (Exhibit A1.)

On November 12, 2021, defendant filed a Declaration of Readiness to Proceed (DOR) to a Mandatory Settlement Conference (MSC). The matter proceeded to multiple hearings and was ultimately set for trial on February 22, 2022.

At trial, issues set for determination included parts of body injury injured (psyche); permanent disability; apportionment; need for further medical treatment; attorney fees; whether

applicant's petition for new and further injury should be dismissed; whether applicant is entitled to a psyche panel; whether defendant is liable for the cost of the applicant's vocational expert's report; whether said report is substantial evidence and admissible; whether applicant waived the psyche issue; and if the report is found admissible and reasonable and necessary, whether defendant is entitled to their own vocational expert report. Applicant submitted into evidence the report of Mr. Diaz and defendant submitted into evidence the reports of Dr. Feinberg and a letter addressed to Ian McFarren and Seeta Ambati. The Court also admitted into evidence a transcript of Dr. Feinberg's deposition and reports from Victor Li, M.D. and Barry Meskin, D.P.M., dated February 2, 2022, and October 3, 2019, respectively.

On June 14, 2022, the WCJ issued an F&O which held, in relevant part, that while employed by defendant as a cashier on February 14, 2017, applicant sustained injury AOE/COE to her right ankle and foot but did not sustain injury to her psyche or new and further disability establishing good cause to reopen her case; that applicant is not entitled to a PQME to address psyche complaints; and that defendant is not liable for the cost of Mr. Diaz's April 13, 2021 report.

Thereafter, applicant sought reconsideration of the F&O, and we granted reconsideration via an Opinion and Order Granting Petition for Reconsideration (O&O).

DISCUSSION

I.

We preliminarily address the issue of the timeliness of applicant's Petition. Defendant asserts that the Petition is untimely as it was filed beyond twenty-five (25) days from service of the F&O. (Answer, pp. 3-4.)

We observe that there are twenty (20) days allowed within which to file a petition for reconsideration from a "final" decision plus five (5) calendar days if a party has been served by mail upon an address in California. (Lab. Code, §§ 5900(a), 5903; Cal. Code Regs., tit. 8, § 10605(a)(1).) This time limit is extended to the next business day if the last day for filing falls on a weekend or holiday. (Cal. Code Regs., tit. 8, § 10600.) In addition, if the party to be served is outside of California but within the United States, the time in which to act is ten (10) calendar days from the date of service, or thirty (30) days total. (Cal. Code Regs., tit. 8, § 10605(a)(2).)

This time limit is jurisdictional and, therefore, the Appeals Board has no authority to consider or act upon an untimely petition for reconsideration. (*Maranian v. Workers' Comp. Appeals Bd*. (2000) 81 Cal.App.4th 1068, 1076 [65 Cal.Comp.Cases 650, 656]; *Rymer v. Hagler* (1989) 211 Cal.App.3d 1171, 1182; *Scott v. Workers' Comp. Appeals Bd.* (1981) 122 Cal.App.3d 979, 984 [46 Cal.Comp.Cases 1008, 1011]; *U.S. Pipe & Foundry Co. v. Industrial Acc. Com.* (*Hinojoza*) (1962) 201 Cal.App.2d 545, 549 [27 Cal.Comp.Cases 73, 75-76].)

Here, the F&O was served on all interested parties on June 14, 2022, including defendant's claims administrator, Broadspire, whose mailing address is in Lexington, Kentucky, which is outside of California but within the United States. Therefore, the 20-day time limit for filing the Petition is extended by 10 days. (See *Mayfield v. Walmart, Inc.,* 2022 Cal. Wrk. Comp. P.D. LEXIS 120.) Based upon this extension, applicant had until July 14, 2022, or 30 days from the June 14, 2022 date of service of the F&O, in which to file a Petition. The Petition was filed on July 13, 2022. Accordingly, applicant's Petition is timely.

II.

Turning now to the merits of the Petition, applicant contends that she is entitled to a QME panel based upon Dr. Feinberg's diagnosis of a psyche comorbidity as well as his testimony that a psyche evaluator is warranted in addressing applicant's Complex Regional Pain Syndrome (CRPS) related psyche issues. (Petition, p. 4.)

Pursuant to Administrative Director (A.D.) Rule 31.7, once an AME, PQME, or agreed PQME has issued a comprehensive medical-legal report in a case and a new medical dispute arises, to the extent possible, the parties are to obtain a follow-up evaluation or supplemental report from the same evaluator. (Cal. Code Regs., tit. 8, § 31.7(a).) However, if a PQME in a different specialty is needed, per subsection (b), the Medical Director shall issue an additional panel upon a showing of good cause. For the purposes of subsection (b), good cause includes:

> (1) A written agreement by the parties in a represented case that there is a need for an additional comprehensive medical-legal report by an evaluator in a different specialty and the specialty that the parties have agreed upon for the additional evaluation; or
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> …
>
> (3) An order by a Workers' Compensation Administrative Law Judge for a panel of QME physicians that also either designates a party to select the specialty or

states the specialty to be selected and the residential or employment-based zip code from which to randomly select evaluators;

…

(Cal. Code Regs., tit. 8, § 31.7(b).)

In the instant matter, there was no written agreement between the represented parties for a panel. Further, the WCJ held that applicant did not sustain industrial injury to her psyche and was not entitled to a panel to address her psyche complaints. (F&O, p. 1.) The WCJ's rationale was that per Dr. Feinberg, "[a]pplicant has not sustained new and further disability" or additional impairment as a result of applicant's spinal cord stimulator implant because applicant's condition "improved" due to decreased pain. (F&O and OOD, p. 3.) We find this rationale to be problematic as Dr. Feinberg is the *orthopedic* AME in this case. He is not serving in the capacity of a psyche AME or PQME.

Further, on the issue of CRPS, Dr. Feinberg testified that CRPS can affect people in a variety of ways depending upon each individual's specific background. (Exhibit X, pp. 9:14-10:19.) He therefore ultimately recommended psyche treatment as well as input from a psyche evaluator. (*Id*. at pp. 12:16-19, 14:14-22.)

As the parties are well aware, the WCAB has a constitutional mandate to "ensure substantial justice in all cases" and may not leave matters undeveloped where additional discovery may be necessary. (*Kuykendall v. Workers' Comp. Appeals Bd.* (2000) 79 Cal.App.4th 396, 403-404 [65 Cal.Comp.Cases 264].) Where the record requires further development, the preferred procedure is to allow supplementation of the medical record by the physicians who have already reported in the case. (*McDuffie v. L.A. County Metro. Transit Authority*, *supra*, 67 Cal.Comp.Cases at p. 142.) If the supplemental opinions of previously reporting physicians do not or cannot cure the need for development of the medical record, the parties may proceed with the selection of an AME or proceed with the panel QME process pursuant to A.D. Rule 31.7(b), discussed above.

The WCJ concluded that applicant "failed to sustain her burden in proving psychological injury AOE/COE and has not demonstrated due diligence in obtain[ing] said evidence" given that psyche was first pled back in December of 2019. (Report, p. 4.) Pursuant to the case of *Jover v. County of San Bernardino Dept. of Public Health* (May 8, 2025, ADJ18210611) [2025 Cal. Wrk. Comp. P.D. LEXIS 125; 2025 LX 142301], however, verification of medical causation of

contested body parts is not a prerequisite for additional QME panels. Further, although psyche was initially pled back in 2019, Dr. Feinberg did not discuss the potential need for a psyche evaluator until his March 11, 2021 deposition. As noted above, Dr. Feinberg was questioned regarding whether applicant would be off task (and, presumably, unable to work) a certain percentage of the day due to pain, to which he responded that "we would have to get some input from a psychiatric evaluator." (Exhibit X, pp. 13:21-14:6.)

Additionally, section 5410 in conjunction with section 5803, defines the Appeals Board's continuing jurisdiction and authority "to award compensation for a new disability resulting from the original injury or for an increase of the disability for which compensation has been awarded or paid voluntarily." (*Broadway-Locust Co. v. Industrial Accident Comm*. (1949) 92 Cal.App.2d 287, 290 [14 Cal.Comp.Cases 111]; see also *Nickelsberg v. Workers' Comp. Appeals Bd*. (1991) 54 Cal.3d 288, 297 [56 Cal.Comp.Cases 476].) An injured worker who previously received workers' compensation benefits, whether voluntarily paid by the employer or pursuant to an award, is entitled to claim benefits for "new and further disability" within five years of the date of injury. (Lab. Code, § 5410; *Sarabi v. Workers' Comp. Appeals Bd.* (2007) 151 Cal.App.4th 920, 925 [72 Cal.Comp.Cases 778].)

Section 5410 states that:

> Nothing in this chapter shall bar the right of any injured worker to institute proceedings for the collection of compensation within five years after the date of the injury upon the ground that the original injury has caused new and further disability. The jurisdiction of the appeals board in these cases shall be a continuing jurisdiction within this period. This section does not extend the limitation provided in Section 5407.

Pursuant to section 5410, for an applicant to recover additional temporary or permanent disability benefits, the petition must be filed within five years from the date of injury, and applicant must have suffered a "new and further disability" within that five-year period, unless there is otherwise good cause to reopen the prior award. The Court of Appeal in the case of *Applied Materials v. Workers' Comp. Appeals Bd.* (*Chadburn*) (2021) 64 Cal.App.5th 1042 [86 Cal.Comp.Cases 331] defined new and further disability as "disability resulting from some demonstrable change in the employee's condition, including a gradual increase in disability, a recurrence of TD, a new need for medical treatment, or the change of a temporary disability into a permanent disability." (*Id.* at p. 1080.) California case law has applied section 5410 to cases

involving new and further disability to the original body part (*Sarabi*, *supra*, at pp. 922-923, 926-927) or injury to a new body part which is alleged as a compensable consequence of the original injury. (*Southern California Rapid Transit Dist., Inc. v. Workers' Comp. Appeals Bd.* (*Weitzman*) (1979) 23 Cal.3d 158, 165-166 [44 Cal.Comp.Cases 107]; *Liberty Mutual Ins. Co. v. Industrial Accident Com.* (*Walden*) (1964) 231 Cal.App.2d 501, 504-505 [29 Cal.Comp.Cases 293].) Irrespective of whether the Appeals Board's continuing jurisdiction is invoked because of new and further injury to an original body part or injury to a new body part as a compensable consequence of the original injury, however, the new and further disability must be a result or an effect of the prior compensable injury. (*Chadburn*, *supra*, at p. 1080; *Sarabi*, *supra*, at p. 926; *Weitzman*, *supra*, at pp. 164-166.)

Further, regardless of whether there has been "new and further disability," good cause to reopen may also exist pursuant to section 5803. (*Aliano v. Workers' Comp. App. Appeals Bd.* (1979) 100 Cal.App.3d at p. 366 [45 Cal.Comp.Cases 876].) Good cause pursuant to this section pertains to the existence of some ground, not within the knowledge of the Appeals Board at the time of making the former award or order, which renders the original award or order inequitable. It cannot be premised on a mere change of opinion by the Appeals Board. (*Walters v. Ind. Acci. Com.* (1962) 57 Cal. 2d 387, 394). The term "good cause" is discussed in greater detail in the case of *Nicky Blair's Restaurant v. Workers' Comp. Appeals Bd.* (*Macias*) (1980) 109 Cal. App. 3d 941, 45 Cal.Comp.Cases 876] wherein the Court of Appeal stated that:

> The principle of reopening for "good cause" does not permit an attempt to simply relitigate the original award. A petition to reopen may not be used to litigate issues which should have been raised by a timely petition for reconsideration. "Good cause" to reopen does not consist of medical evidence obtained subsequent to the original decision which merely disagrees with the medical opinion relied upon by the Board at the time of the original decision. …¶ … Through many court decisions it has become well settled that, in order to constitute 'good cause' for reopening, new evidence (a) must present some good ground, not previously known to the Appeals Board, which renders the original award inequitable, (b) must be more than merely cumulative or a restatement of the original evidence or contentions, and (c) must be accompanied by a showing that such evidence could not with reasonable diligence have been discovered and produced at the original hearing.

(*Id*. at p. 956, citations omitted.)

Here, the WCJ held that applicant did not sustain industrial injury to her psyche or new and further industrial injury establishing good cause to reopen her case. These findings were made

without the benefit of a psyche evaluation and a corresponding medical report and in contradiction to recommendations made by Dr. Feinberg.

As the parties are well aware, decisions of the Appeals Board "must be based on admitted evidence in the record." (*Hamilton v. Lockheed Corporation* (2001) 66 Cal.Comp.Cases 473, 476 (Appeals Bd. en banc).) The Appeals Board has a constitutional mandate to "ensure substantial justice in all cases." (*Kuykendall v. Workers' Comp. Appeals Bd.* (2000) 79 Cal.App.4th 396, 403 [65 Cal.Comp.Cases 264].) The WCJ and the Appeals Board also have a duty to further develop the record where there is insufficient evidence on an issue and may not leave matters undeveloped where it is clear additional discovery is needed. (*McClune v. Workers' Comp. Appeals Bd.* (1998) 62 Cal.App.4th 1117, 1121-1122 [63 Cal.Comp.Cases 261]; *Kuykendall*, *supra*, at p. 404.) It has long been recognized that medical proof is required when issues of diagnosis, prognosis, and treatment are beyond the bounds of ordinary knowledge. (*City & County of San Francisco v. Industrial Acc. Com*. (*Murdock*) (1953) 117 Cal.App.2d 455 [18 Cal.Comp.Cases 103]; *Bstandig v. Workers' Comp. Appeals Bd*. (1977) 68 Cal.App.3d 988 [42 Cal.Comp.Cases 114].) Although the number and nature of the injuries suffered are questions of fact for the WCJ or the Appeals Board, those facts are to be determined by considering the events leading to the injury, the medical history of the claimant, and the medical reporting received. (*Aetna Cas. & Surety Co. v. Workmen's Comp. Appeals Bd*. (*Coltharp*) (1973) 35 Cal.App.3d 329 341 [38 Cal.Comp.Cases 720]; *Western Growers Ins. Co. v. Workers' Comp Appeals Bd*. (*Austin*) (1993) 16 Cal.App.4th 227, 234–235 [58 Cal.Comp.Cases 323].)

Taking all the above into consideration and given that the medical record is lacking with respect to the issue of applicant's alleged psyche claim, we believe good cause exists for the issuance of an additional QME panel.

III.

Lastly, applicant asserts that in accordance with the en banc cases of *Costa I* and *Costa II*, defendant is liable for applicant's vocational expert fees. (Petition, p. 5.)

In *Costa II*, we held that costs related to vocational evidence must be reasonable and necessary at the time they were incurred, and such determinations are made on a case-by-case basis. (*Costa II*, *supra*, at p. 1498.) We further held that as with medical-legal costs, which may be reimbursable even though the applicant is unsuccessful in his or her claim (see *Subsequent Injuries*

Fund v. Industrial Acc. Com. (*Roberson*) (1963) 59 Cal.2d 842, 844 [28 Cal.Comp.Cases 139, 140]; *Beverly Hills Multispecialty Group, Inc. v. Workers' Comp. Appeals Bd.* (*Pinkney*) (1994) 26 Cal.App.4th 789, 802 [59 Cal.Comp.Cases 461, 471]), the vocational expert evidence offered by an applicant need not successfully affect the permanent disability rating in order to found reimbursable. (*Costa II*, *supra*, at p. 1498.) Similarly, in the case of *Barr v. Workers' Comp. Appeals Bd.* (2008) 164 Cal.App.4th 173 [73 Cal.Comp.Cases 763], the Court held that admissibility is not a prerequisite to a determination that a vocational expert report was reasonably and necessarily incurred, and thus reimbursable, pursuant to section 5811. The Court in that case further observed that:

> [R]eports that are inadmissible for any number of reasons might be valuable in preparing for a hearing or to further settlement negotiations. Given that the WCAB is accorded generous flexibility by sections 5708 and 5709 to achieve substantial justice with relaxed rules of procedure and evidence and that SIF concedes the use of vocational rehabilitation experts is unregulated, we can find nothing in the Labor Code or general principles of due process to limit the WCAB's discretion to award costs in accord with the broad language used in section 5811.
>
> (*Id*. at p. 179.)

Here, Dr. Feinberg testified that his original work restrictions for applicant included "sedentary work with minimum weight-bearing and allowance of use of an assistive device." (Exhibit X, p. 13:7-9.) He further testified that applicant should avoid excessive bending, torquing her back, kneeling, and excessive twisting. (*Id*. at p. 13:10-20.) When questioned about whether applicant would be off task a certain percentage of the day, he ultimately deferred to a psyche evaluator but estimated that applicant would have trouble "eight hours a day, five days a week." (*Id*. at pp. 13:21-14:6.) Given this additional information, it was reasonable for applicant to believe that expert reporting was necessary to determine whether the said restrictions affected her vocational prospects. As noted above, the fact that she was ultimately not successful in her efforts is not relevant for reimbursement purposes.

Accordingly, we rescind the F&O and substitute it with a new F&O which finds good cause for the issuance of an additional QME panel to address applicant's psyche claim, liability by defendant for costs related to the April 13, 2021 vocational expert report by Frank Diaz, and defers the issues of injury AOE/COE to the psyche and whether applicant sustained new and further disability thereby establishing a right to reopen her case.

For the foregoing reasons,

IT IS ORDERED, as the Decision After Reconsideration of the Workers' Compensation Appeals Board, that the June 14, 2022 Findings and Order of the workers' compensation administrative law judge is **RESCINDED** and **SUBSTITUTED** with a new Findings and Order, as provided below.

FINDINGS OF FACT

1. Applicant, Theresa Rocha, born [], while employed on February 14, 2017 as a cashier, occupational group 322, in Watsonville, California, by Mas Li, Incorporated, sustained injury AOE/COE to her right ankle and right foot.

2. The primary treating physician is Dr. Victor Li.

3. No attorney fees have been paid, and no attorney fee arrangements have been made.

4. There is good cause for an additional QME panel to address applicant's psyche claim.

5. Defendant is liable for reasonable costs related to the preparation of the April 13, 2021 report by vocational expert, Frank Diaz.

6. All other issues, including injury to the psyche, as well as whether applicant has sustained new and further disability thereby establishing a right to reopen her case, are deferred.

ORDER

IT IS ORDERED that an additional QME panel to address applicant's psyche claim shall issue upon the parties' request to the Medical Director.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ PATRICIA A. GARCIA, DEPUTY COMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

AUGUST 6, 2026

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

THERESA ROCHA
RUCKA, O'BOYLE, LOMBARDO & MCKENNA
LAUGHLIN, FALBO, LEVY & MORESI

RL/*cs*

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