WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA

JEAN CONCEPCION, *Applicant*

vs.

NORWALK INTERCOM HEALTHCARE; ZURICH LOS ANGELES, *Defendants*

Adjudication Number: ADJ18125440
Anaheim District Office

OPINION AND ORDER GRANTING PETITION FOR RECONSIDERATION AND DECISION AFTER RECONSIDERATION

Applicant seeks reconsideration of the July 31, 2024 Findings and Order (F&O), wherein the workers' compensation administrative law judge (WCJ) found that applicant's claim for an August 4, 2022 injury arising out of and in the course of employment (AOE/COE) to the neck, back, psyche, sleep, internal, left knee, bilateral shoulders, head and other body systems while employed by defendant as a marketing director was barred by the going and coming rule, post termination defense per Labor Code[1] section 3600(a)(10), and six-month bar to psyche claims under section 3208.3(d).

Applicant contends that his claim was not barred by the going and coming rule as he was delivering donuts to a client when the motor vehicle accident occurred. As such, he was "engaged in work activities at the time of the motor vehicle accident." (Petition for Reconsideration (Petition), p. 14.) Applicant also contends that the WCJ was biased in her decision making and premature in her application of section 3208.3(d).

[1] All further references will be to the Labor Code unless otherwise indicated.

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

We have considered the Petition, the Answer, the contents of the Report, and we have reviewed the record in this matter. For the reasons discussed below, we will grant the Petition, rescind the F&O, and substitute it with a new F&O, which finds that applicant's claimed injury is not barred by the coming and going rule or sections 5405, 3600(a)(10), and 3208.3(d).

FACTS

Applicant claimed that while employed by defendant as a marketing director on August 4, 2022, he sustained an industrial injury to his head, neck, back, bilateral shoulders, left knee, psyche, sleep, internal, and other body systems. Applicant alleged he was delivering donuts to a client when he was involved in a motor vehicle accident.

Applicant's supervisor was Romyn Patel. Applicant texted Mr. Patel on August 4, 2022 notifying him of the injury. It is unclear whether Mr. Patel or some other representative of defendant provided applicant with a claim form or notice of potential eligibility for workers' compensation benefits.

In an August 11, 2022 text exchange between applicant and Mr. Patel, applicant submitted a copy of an August 9, 2022 notice from Bob Binafard, D.C. taking applicant off work from August 4, 2022 to September 15, 2022 due to the August 4, 2022 motor vehicle accident. (Exhibit 6.)

Applicant filed an Application for Adjudication of Claim on August 23, 2023.

On June 12, 2024, the parties proceeded to trial. Applicant raised the issue of injury arising out of and in the course of employment and defendant raised the issues of the going and coming rule, post termination defense, and section 3208.3(d). Defendant submitted no documentary evidence as to whether applicant was terminated and how long applicant was employed by defendant.

Applicant testified in relevant part as follows:

> [H]e was a Marketing Director Liaison. He was hired June, 2022. He was hired by the administrator Romyn Patel. His job duties were marketing 70 percent of the time. He would talk to case managers and any family members of potential patients that needed the facility. The facility he worked at was a nursing facility and rehab, and they did long-term care and subacute care. The rehab was for patients with slip-and-fall injuries to recover and regain full function to go back home.

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The equipment the applicant was provided was petty cash, pens, and brochures. He could expense doctors [*sic*] lunches. He was not provided a vehicle. He used his own car. Mr. Patel told him he had to travel. He travelled 50 percent out in the field, 30 percent going to the facility giving tours to family members, and doing daily reports.

Mr. Patel did not tell the applicant where he had to go. There was a doctor roster and clients they already worked with. He had a list for potential jobs. The locations he would go to were provided by Mr. Patel and himself. They would discuss where he was going to go. His clients were located in Norwalk. In about one mile there were several doctors and assisted living facilities. He would also go to Los Angeles.

The applicant was pretty consistent to go to the client's offices weekly and to obtain referrals; he would build rapport with clients; he would give the family members peace of mind; he would arrange for transportation needed to and from the facilities, for instance, from the hospital to the facility where he was located at; he would bring goodies; he was to represent the employer. He believed giving goodies was a way to getting in good with clients. When he would provide Panera Bread, doughnuts, or Costco to bring to the nurses, he would not go that far from where the location he was going to.

The applicant was dressed in a suit and tie. Mr. Patel knew the applicant would bring goodies to potential clients. He would be reimbursed by filling out a sheet and given to the administrator, who would then give the form to the corporate office. He filled one out once a month. He was never told to bring goodies to these people. He was never told that he was required to bring them goodies, but he believed that is what the petty cash was for. He would spend it on the doctors and administrators. It was standard practice to give them pens and brochures.

The applicant did have a discussion with how petty cash was to work and the administrator would sign off. He just knew it from prior experience. Mr. Patel would hand him the petty cash, he would sign it off, and it would go to corporate office. He would be reimbursed with a check. He would be reimbursed for mileage. He was not sure of the rate. He only submitted his mileage once. If he did not submit mileage, he would lose out on it. There was no deadline, but they wanted it within a month.

On August 4, 2022, when the applicant was in his motor vehicle accident, he was going to follow up with a client at a subacute facility and meet with Veronica and her team. He wanted to give them doughnuts. He was going to call [at] Coast Plaza Hospital. He left his house at 8:50 a.m. A half a mile away from his house is Coast Plaza Hospital. He stopped to get doughnuts. He does not recall the expense, but he knows that they were expensive. He wanted to thank them for the referral and did not want to come empty-handed. He believed he was going to be reimbursed for

the doughnuts. He did not eat the doughnuts. He was hit by a person running a red light on the way to the hospital on Studebaker Street, three blocks from the hospital.

The applicant texted the employer after the accident. The employer was concerned but wanted him to come in. He told his employer that he was not feeling well after the accident….

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The applicant told the administrator, the in-house administrator, and the office manager in HR of his accident. Then the applicant doubled back and said they heard it through the grapevine, and that he only told the administrator and the HR. Then he re-testified and said he told the assistant, in-house coordinator, and HR. He thinks he called Darlene at HR. No one gave him a claim form.

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…Forty percent of the time he would go to the jobsite and then go out to make his rounds, but it would depend on the day. He always told Mr. Patel what was going on. Sixty percent of the time, he would be out at clients' locations. He would try to visit four facilities a day. He would see clients in the morning before he went to the employment jobsite. He would go back to the employer around 3 p.m. At 3 p.m. he would do reports, and then he would leave again to see other clients. He was never disciplined for going to the jobsite. He was never told not to go to the jobsite.

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Several times the applicant bought doughnuts for clients at different locations. It was his decision to buy doughnuts and where to buy the doughnuts at. He would usually do it close to his house and the hospital. The applicant stated that prior to the accident he told Mr. Patel he was purchasing doughnuts and, for the most part, Mr. Patel would say yes. He would not have to tell Mr. Patel every time he purchased. They would have discussions on their texts, over the phone, or face-to-face. Sometimes they would plan ahead on what they could budget. Sometimes they would spend extra for clients and buy the clients' offices lunch.

(Minutes of Hearing and Summary of Evidence, June 12, 2024, pp. 4-7.)

Applicant's supervisor Romyn Patel testified in relevant part as follows:

Mr. Patel works at Intercommunity Healthcare Norwalk. He is a facilities administrator. He was hired in April of 2022…. He managed the facility and the compliance. He was the applicant's supervisor. The injured worker was an hourly employee….

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There was a biometric punch clock located by the front door near Mr. Patel's office. He observed the injured worker using the biometric punch clock. He was required to start each working day at the facility. His timecard was adjusted a few times. If he forgot to punch in, they would submit a time adjustment form. Mr. Patel would have been made aware of the applicant's timecard being adjusted. He did not have

any meetings with the injured worker about his timecard being adjusted. He probably had it adjusted less than five times.

The injured worker's job requirements were: business development, marketing, meeting case managers at the hospital, and visiting new patients. The job requirements at the facility were: meeting with members from the departments every morning; discuss if beds were available, male or female availability; discuss isolation beds that would be a three-bedroom room but might only be able to accommodate one patient, due to isolation; and discussion on how the scenarios regarding the beds would change daily and frequently throughout the day.

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Mr. Patel was aware that the applicant suffered a motor vehicle accident on August 4, 2022. He was not aware that the injured worker planned on picking up doughnuts that day. Mr. Patel does not think he authorized the applicant to purchase doughnuts. The applicant did tell Mr. Patel that he was going to Coast Plaza Hospital before clocking in….

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The injured worker would regularly interact with the admissions coordinator. There is a doughnut shop next door to Intercommunity. The injured worker would bring doughnuts to the staff of the facility, his co-workers. This was not considered marketing, but a friendly co-worker gesture.

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…The night of the accident, Mr. Patel believes that he got a text from the applicant that said he was being discharged from the hospital, and that was at about 7 p.m….

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Mr. Patel asked the injured worker if he was okay after the accident. He called him, and the injured worker texted him and he texted back. He attempted to call him but he was told he was in the hospital, which he communicated via text…. He did not layoff the injured worker. He did not tell him to pick up his last paycheck….

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…The injured worker manages his own petty cash, about $500 a month. The purpose of the petty cash is for business development. The injured worker knows that the petty cash is for business development and how to use it. He is to sign off on it. Mr. Patel has never denied a request for petty cash. He has never told the injured worker he could not use the petty cash for business development….

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The applicant is paid mileage…. To Mr. Patel's knowledge, the applicant attended all the meetings…. Petty cash for marketing was explained to the injured worker. He would receive $500 for doctors and case managers, which was not much.

(Minutes of Hearing and Summary of Evidence, June 12, 2024, pp. 10-24.)

DISCUSSION

I.

Preliminarily, 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, section 5909 was amended to state in relevant part that:

> (a) A petition for reconsideration is deemed to have been denied by the appeals board unless it is acted upon within 60 days from the date a trial judge transmits a case to the appeals board.
>
> (b)
>
> (1) When a trial judge transmits a case to the appeals board, the trial judge shall provide notice to the parties of the case and the appeals board.
>
> (2) For purposes of paragraph (1), service of the accompanying report, pursuant to subdivision (b) of Section 5900, shall constitute providing notice.

Under section 5909(a), the Appeals Board must act on a petition for reconsideration within 60 days of transmission of the case to the Appeals Board. Transmission is reflected under the Events tab 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 4, 2024, and 60 days from the date of transmission is Sunday, November 3, 2024. The next business day that is 60 days from the date of transmission is Monday, November 4, 2024. (See Cal. Code Regs., tit. 8, § 10600(b).)[2] This decision is issued by or on November 4, 2024, so that we have timely acted on the petition as required by section 5909(a).

Section 5909(b)(1) requires that the parties and the Appeals Board be provided with notice of transmission of the case. Transmission of the case to the Appeals Board in EAMS provides notice to the Appeals Board. Thus, the requirement in subdivision (1) ensures that the parties are

[2] WCAB Rule 10600(b) (Cal. Code Regs., tit. 8, § 10600(b)) states that:

> Unless otherwise provided by law, if the last day for exercising or performing any right or duty to act or respond falls on a weekend, or on a holiday for which the offices of the Workers' Compensation Appeals Board are closed, the act or response may be performed or exercised upon the next business day.

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 and Recommendation shall be notice of transmission.

Here, according to the proof of service for the Report, it was served on September 4, 2024, and the case was transmitted to the Appeals Board on September 4, 2024. Service of the Report and transmission of the case to the Appeals Board occurred on the same day. Thus, we conclude that the parties were provided with the notice of transmission required by section 5909(b)(1) because service of the Report in compliance with section 5909(b)(2) provided them with actual notice as to the commencement of the 60-day period on September 4, 2024.

II.

Pursuant to section 3600(a), liability for workers' compensation occurs in injuries "arising out of and in the course of the employment." (Lab. Code, § 3600(a).) Under the well-established going and coming rule, "an employee does not pursue the course of his employment when he is on his way to or from work." (*Smith v. Workmen's Comp. Appeals Bd.* (*Smith*) (1968) 69 Cal.2d 814, 815-816 [33 Cal.Comp.Cases 771] citing *Zenith Nat. Ins. Co. v. Workmen's Comp. Appeals Bd.* (1967) 66 Cal.2d 944, 946.) Thus, injuries sustained while an employee is "going and coming" to and from the place of employment do not normally arise out of and in the course of employment because the employee is neither providing benefit to the employer nor under the control of the employer during that commute. (*Santa Rosa Junior College v. Workers' Comp. Appeals Bd.* (1985) 40 Cal.3d 345, 351–352 [1985 Cal. LEXIS 410]; *Hinojosa v. Workers' Comp. Appeals Bd.* (*Hinojosa*) (1972) 8 Cal.3d 150, 157 [37 Cal.Comp.Cases 734].) "It applies to a 'local commute enroute to a fixed place of business at fixed hours.' (*Hinojosa*, *supra*, at p. 157.)" (*Zhu v. Workers' Comp. Appeals Bd.* (2017) 12 Cal.App.5th 1031, 1038 [82 Cal.Comp.Cases 692].)

There are several exceptions to the "going and coming" rule. One such exception is the required vehicle exception, which may be invoked when "the employee is expressly or impliedly required or expected to furnish his own means of transportation to the job." (*Hinojosa, supra*, at p. 160 citing *Smith*, *supra*, at p. 814.) "The exception 'arises from the principle that an employee "is performing service growing out of and incidental to his employment" (Lab. Code, § 3600) when he engages in conduct reasonably directed toward the fulfillment of his employer's

requirements, performed for the benefit and advantage of the employer.' (*Smith*, *supra*, at pp. 819–820.)" (*Zhu*, *supra*, at pp. 1031, 1039.)

Applicant's supervisor, Romyn Patel, confirmed at trial that applicant's job duties included "business development, marketing, meeting case managers at the hospital, and visiting new patients." (Minutes of Hearing and Summary of Evidence, June 12, 2024, p. 10.) There is no dispute that these job duties required applicant to use his own vehicle, and that applicant was reimbursed for mileage. Applicant indicated that on the date of the injury, he was on his way to "follow up with a client at a subacute facility" to "give them doughnuts" as a thank you "for the referral." (*Id*. at p. 5.) It therefore appears that at the time of injury, applicant was "performing a service growing out of and incidental to his employment," that was "reasonably directed toward fulfillment" of his business development and marketing duties "for the benefit and advantage" of defendant. (*Smith*, *supra*, at pp. 819–820.)

Mr. Patel testified that he "does not think he authorized applicant to purchase doughnuts" on the date of injury. (Minutes of Hearing and Summary of Evidence, June 12, 2024, p. 11.) He also testified that applicant occasionally brought "doughnuts to the staff of the facility" but this was "not considered marketing" so much as a "friendly co-worker gesture." (*Id*. at p. 12.) According to the text messages admitted into evidence, however, applicant has made food purchases for clients in the past, including donuts and lunch. (See Exhibits 8-10 and 12-14, texts from applicant to Mr. Patel, June 23, 2022 - July 20, 2022.) Further, applicant testified that he occasionally "bought doughnuts for clients at different locations" and did not "have to tell Mr. Patel every time he purchased." (Minutes of Hearing and Summary of Evidence, June 12, 2024, pp. 6-7.) This specific testimony was not contradicted by defendant. Significantly, applicant was provided with $500.00 in petty cash by his employer, which he used to purchase items to take to the clients, such as donuts and lunch.

Assuming arguendo applicant was not delivering doughnuts to a client and therefore not performing a service growing out of and incidental to his employment reasonably directed towards fulfillment of work duties for the advantage of the defendant, pursuant to *Scripps Home Healthcare v. Workers' Comp. Appeals Bd.* (2001) 67 Cal.Comp.Cases 94 (writ den.), applicant's doughnut stop would still be covered under the "minor deviation" exception to the going and coming rule. In *Scripps*, applicant, a registered nurse/case manager, was injured when she slipped and fell on a sidewalk in front of a grocery store. At the time of injury, she was on her way to a work site, but

briefly stopped for a doughnut at Von's where she slipped and fell. The court ultimately found the doughnut stop to be a minor deviation which did not bring applicant out of the course of employment and did not bar her claim for workers' compensation benefits under the going and coming rule.

Similarly here, applicant was injured returning from a doughnut shop. He was on his way to one of the multiple sites he visited as a part of his marketing duties for work when he made the brief visit to pick up a small box of treats for a client. Like the applicant in *Scripps*, the car applicant used was his own, as required by his employment. As such, his mileage was reimbursed. Unlike the applicant in *Scripps,* applicant was not on call at the time of the injury, but we do not find this difference to be dispositive. Ultimately, based upon the overall facts of the case, applicant's stop at the doughnut shop was of benefit to his employer, and was at most a minor deviation which did not take applicant from the course of employment and does not bar applicant's claim for workers' compensation benefits. Therefore, we will find that applicant's claimed injury is not barred by the going and coming rule.

III.

Generally, proceedings before the Workers' Compensation Appeals Board ("WCAB") are commenced by the filing of an application. (Lab. Code, § 5500; Cal. Code Regs., tit. 8, § 10450.) The time limitations for commencing proceedings are set forth in section 5405:

> The period within which proceedings may be commenced for the collection of the benefits provided by Article 2 (commencing with Section 4600) or Article 3 (commencing with Section 4650), or both, of Chapter 2 of Part 2 is one year from any of the following:
>
> (a) The date of injury.
>
> (b) The expiration of any period covered by payment under Article 3 (commencing with Section 4650) of Chapter 2 of Part 2.
>
> (c) The last date on which any benefits provided for in Article 2 (commencing with Section 4600) of Chapter 2 of Part 2 were furnished.

(Lab. Code, § 5405.)

Thus, an applicant must commence proceedings with the WCAB within one year of (1) the date of injury or (2) the expiration of the period covered by the employer's last payment of disability indemnity or (3) the date of the last furnishing by the employer of medical, surgical or

hospital treatment. (*J.T. Thorp v. Workers' Comp. Appeals. Bd.* (1984) 153 Cal.App.3d 327 [49 Cal.Comp.Cases 224].)

In the instant case, applicant's injury occurred August 4, 2022. One year from August 4, 2022 is August 4, 2023. The Application for Adjudication of Claim, however, was not filed until August 23, 2023. Applicant therefore filed the claim in excess of the one-year period under section 5405.

Pursuant to section 5401(a), an employer has a duty to inform an injured employee of his workers' compensation rights when the employer has actual or constructive knowledge of a work-related injury. Failure to meet this duty prevents tolling of the above time limits until the employer's duties under section 5405 have been met.

Mr. Patel confirmed receipt of the August 4, 2022 text from applicant thereby confirming notice of subject injury as of August 4, 2022. (Minutes of Hearing and Summary of Evidence, June 12, 2024, p. 12.) Defendant has produced no evidence as to whether Mr. Patel, or someone else representing defendant provided applicant with information regarding his potential eligibility for workers' compensation benefits.

The WCJ appears to concede that defendant did not produce evidence of provision of a claim form to applicant, but the WCJ argues it was not necessary because "[a]pplicant knew the process of filing a claim from his prior workers' compensation injury" (Report, p. 3.) The WCJ also alleges that defendant "was not required to provide a claim form" since "[applicant] was not working at the time of injury." (*Id*.) Unfortunately, however, there are no caveats or exceptions under section 5401(a). The duty outlined under section 5401(a) is affirmative and one that rests solely with the employer. As confirmed by the court in *Reynolds v. Workmen's Comp. Appeals Bd.* (1974) 12 Cal.3d 726, 729 [39 Cal.Comp.Cases 768]:

> The clear purpose of these rules is to protect and preserve the rights of an injured employee who may be ignorant of the procedures or, indeed, the very existence of the work[ers]' compensation law. Since the employer is generally in a better position to be aware of the employee's rights, it is proper that he should be charged with the responsibility of notifying the employee, under circumstances such as those existing here, that there is a possibility he may have a claim for work[ers]' compensation benefits.

Based on the record before us, defendant did not meet its burden to demonstrate that it had provided applicant with the statutorily required claim form. Therefore, defendant did not meet its

burden in showing that applicant's claimed injury is barred by the statute of limitations. We will therefore find that the injury is not barred by the statute of limitations.

IV.

The WCJ argues that applicant's claim is barred under section 3600(a)(10). This section provides in pertinent part that:

> (10) Except for psychiatric injuries governed by subdivision (e) of Section 3208.3, where the claim for compensation is filed after notice of termination or layoff, including voluntary layoff, and the claim is for an injury occurring prior to the time of notice of termination or layoff, no compensation shall be paid unless the employee demonstrates by a preponderance of the evidence that one or more of the following conditions apply:
>
> (A) The employer has notice of the injury, as provided under Chapter 2 (commencing with Section 5400), prior to the notice of termination or layoff.
>
> (B) The employee's medical records, existing prior to the notice of termination or layoff, contain evidence of the injury.
>
> (C) The date of injury, as specified in Section 5411, is subsequent to the date of the notice of termination or layoff, but prior to the effective date of the termination or layoff.

(Lab. Code, § 3600(a)(10).)

The WCJ contends that under section 3600(a)(1), applicant's claim is barred as the Application was filed after notice of his termination. Based upon the current record, however, it is unclear whether applicant was in fact terminated as defendant did not provide evidence to that effect. (Minutes of Hearing and Summary of Evidence, June 12, 2024, p. 6.) Thus, defendant did not meet its burden on this issue.

Even if defendant could show applicant was in fact terminated, Mr. Patel admitted that he knew applicant was involved in a motor vehicle accident and was treated at a hospital on the same date. Thus, defendant did not meet its burden under section 3600(a)(10)(A). Moreover, based upon Exhibit 6, which includes a copy of the August 9, 2022 disability notice, medical records containing evidence of the injury was already in existence. Further, there is no evidence applicant was terminated before the date of the text, on August 11, 2022. We will therefore find that applicant's claimed injury is not barred by section 3600(a)(10).

V.

The WCJ argues that applicant's claim is barred under section 3208.3(d). This section provides, in pertinent part that:

> "…no compensation shall be paid pursuant to this division for a psychiatric injury related to a claim against an employer unless the employee has been employed by that employer for at least six months. The six months of employment need not be continuous. This subdivision shall not apply if the psychiatric injury is caused by a sudden and extraordinary employment condition."

(Lab. Code, § 3208.3(d).)

Applicant's claim, however, alleges psyche in addition to injuries to the head, neck, back, bilateral shoulders, left knee, sleep, internal, and other body systems. The six-month bar applies only to psyche injuries. As such, applicant's non-psyche injuries are not subject to section 3208.3(d). Defendant produced evidence as to the date applicant began working; that is, the personnel records submitted by defendant show applicant began working June 2, 2022. (Exhibit C.) As noted above, however, defendant produced no evidence as to applicant's length of employment and no evidence as to applicant's termination. Based upon the current evidence in the record, we find applicant's claim of injury to psyche is not barred by the six-month requirement under section 3208.3(d). We do not address the issue of whether applicant sustained injury AOE/COE for psyche.

Accordingly, we grant applicant's Petition, rescind and substitute the July 31, 2024 F&O, and find that applicant's claimed injury is not barred by the coming and going rule or sections 5405, 3600(a)(10), and 3208.3(d).

For the foregoing reasons,

IT IS ORDERED that applicant's Petition for Reconsideration of the July 31, 2024 Findings and Order is **GRANTED**.

IT IS FURTHER ORDERED, as the Decision After Reconsideration of the Workers' Compensation Appeals Board, that the July 31, 2024 Findings and Order is **RESCINDED** and **SUBSTITUTED** with a new Findings and Order, as provided below.

STATEMENT OF FACTS

1. Jean Concepcion, born [], while employed on August 4, 2022, as a marketing director, by Norwalk Intercom Healthcare, administered by Gallagher Bassett Services for Zurich North America Insurance, claims to have sustained an injury arising out of and in the course of employment to neck, back, psyche, sleep, internal, left knee, bilateral shoulders, head and other body systems.

2. The claim is not barred by the going and coming rule as applicant was performing a service growing out of and incidental to his employment and engaged in conduct reasonably directed toward the fulfillment of his employment requirements, performed for the benefit and advantage of defendant.

3. Applicant's claimed injury is not barred by Labor Code section 5405.

4. Applicant's claimed injury is not barred by Labor Code section 3600(a)(10).

5. Applicant's claimed injury to psyche is not barred by Labor Code section 3208.3(d).

ORDER

1. All other issues are deferred.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ CRAIG SNELLINGS, COMMISSIONER

/s/ JOSÉ H. RAZO, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

November 4, 2024

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

JEAN CONCEPCION
LAW OFFICE OF JAMES YANG
ALBERT & MACKENZIE, LLP

RL/*pm*

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