

**WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA**

CHRISTOPHER BRABANT, *Applicant*

vs.

**SALINAS UNION HIGH SCHOOL DISTRICT,
permissibly self-insured, adjusted by INTERCARE, *Defendants***

**Adjudication Number: ADJ19399039
Salinas District Office**

**OPINION AND ORDER
DENYING PETITION FOR
RECONSIDERATION**

Defendant seeks reconsideration of the May 16, 2025 Findings, Award, and Order (FA&O) wherein the workers' compensation administrative law judge (WCJ) found, in relevant part, that applicant, while employed as a teacher on January 9, 2024, sustained an injury arising out of and in the course of employment (AOE/COE) to his psyche.

Defendant contends that applicant did not sustain an injury AOE/COE to his psyche since industrial factors were "not a predominant cause of applicant's injuries" and there is "no causal connection between his employment and the psychiatric trauma of seeing his daughter injured after the fact." (Petition for Reconsideration (Petition), p. 11.)

We have received an Answer from applicant. 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 stated below, we will deny the Petition.

FACTS

Applicant claimed that, while employed by defendant as a teacher on January 9, 2024, he sustained an injury AOE/COE to his psyche. On the date of the injury, while performing his teaching duties, applicant was notified by a security guard at work that his daughter was injured

on the track during her gym class. Applicant was sent to the nurse's office where he witnessed the aftermath of his daughter's injury including extensive bleeding and her screams of pain. Thereafter, applicant rode in the ambulance with his daughter to the hospital.

On June 12, 2024, applicant filed an Application for Adjudication of Claim, and on July 8, 2024, defendant filed an Answer denying applicant's claim.

Thereafter, the parties proceeded with discovery and retained Dr. Wilson Howe as the psyche panel Qualified Medical Evaluator (PQME). Dr. Howe evaluated applicant on September 20, 2024, and issued a corresponding report wherein he diagnosed applicant with post-traumatic stress disorder (PTSD) and found predominant industrial causation for applicant's psyche injury as a result of the January 9, 2024 incident. (Exhibit A-1, pp. 15, 18.)

On October 25, 2024, defendant filed a Declaration of Readiness to Proceed to a priority conference.

On January 29, 2025, and March 26, 2025, the matter proceeded to trial on the issue of injury AOE/COE for psyche.

On May 16, 2025, the WCJ issued a FA&O wherein the WCJ found that applicant, while employed by defendant as a teacher on January 9, 2024, sustained injury AOE/COE to the psyche, and that applicant's earnings warranted a weekly permanent disability benefit rate of \$290.00. All other issues were deferred.

DISCUSSION

I.

Preliminarily, former Labor Code¹ 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.

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

- (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 June 20, 2025, and 60 days from the date of transmission is August 19, 2025. This decision was issued by or on August 19, 2025, so that we have timely acted on the petition as required by section 5909(a).

Section 5909(b)(1) requires that the parties and the Appeals Board be provided with notice of transmission of the case. Transmission of the case to the Appeals Board in EAMS provides notice to the Appeals Board. Thus, the requirement in subdivision (1) ensures that the parties are notified of the accurate date for the commencement of the 60-day period for the Appeals Board to act on a petition. Section 5909(b)(2) provides that service of the Report and Recommendation shall constitute notice of transmission.

Here, according to the proof of service for the Report, it was served on June 20, 2025, and the case was transmitted to the Appeals Board on June 20, 2025. Service of the Report and transmission of the case to the Appeals Board occurred on the same day. Thus, we conclude that the parties were provided with the notice of transmission required by 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 June 20, 2025.

II.

Turning now to the merits of the Petition, defendant contends that applicant failed to meet his burden of proof in establishing injury AOE/COE to the psyche.

With respect to a claim of injury to the psyche, pursuant to section 3208.3:

- (a) A psychiatric injury shall be compensable if it is a mental disorder which causes disability or need for medical treatment, and it is diagnosed pursuant to procedures promulgated under paragraph (4) of subdivision (j) of Section 139.2 or, until these procedures are promulgated, it is diagnosed using the terminology and criteria of the American Psychiatric Association's Diagnostic

and Statistical Manual of Mental Disorders, Third Edition-Revised, or the terminology and diagnostic criteria of other psychiatric diagnostic manuals generally approved and accepted nationally by practitioners in the field of psychiatric medicine.

- (b) (1) In order to establish that a psychiatric injury is compensable, an employee shall demonstrate by a preponderance of the evidence that actual events of employment were predominant as to all causes combined of the psychiatric injury.

(Lab. Code, § 3208.3(a)-(b)(1).)

"Predominant as to all causes" for purposes of section 3208.3(b)(1) has been interpreted to mean more than 50 percent of the psychiatric injury was caused by actual events of employment. (*Dept. of Corr. v. Workers' Comp. Appeals Bd. (Garcia)* (1999) 76 Cal.App.4th 810, 816 [64 Cal.Comp.Cases 1356].) The Labor Code does not define "actual events of employment," but the Court of Appeals has defined it as follows:

First, the factor must be an "event"; i.e., it must be "something that takes place" (American Heritage Dict. (4th ed. 2000) p. 616) in the employment relationship.

Second, the event must be "of employment"; i.e., it must arise out of an employee's working relationship with his or her employer. (*Pacific Gas & Electric Co. v. Workers' Comp. Appeals Bd. (Bryan)* (2004) 114 Cal.App.4th 1174, 1181 [69 Cal.Comp.Cases 21]; see also *Verga v. Workers' Comp. Appeals Bd.* (2008) 159 Cal.App.4th 174, 186 [73 Cal.Comp.Cases 63] [actual events of employment "'can be interpreted' as requiring the employee to establish 'objective evidence of harassment, persecution, or other basis for the alleged psychiatric injury'."].)

In the instant matter, the PQME report of Dr. Howe shows that (1) applicant sustained a mental disorder (PTSD) which caused disability and need for treatment; (2) the disorder was diagnosed under the proper criteria; and (3) the disorder was predominantly caused as a result of applicant's traumatic exposure at work. (Exhibit A-1, pp. 15-19.) Thus, the reporting of Dr. Howe constitutes substantial medical evidence.

Defendant argues that as in *Atascadero Unified School Dist. v. Workers' Comp. Appeals Bd. (Geredes)* (2002) 98 Cal.App.4th 880, applicant's place of employment was "merely the stage" for "applicant's purely personal injury" and, as such, applicant's claim should not be found compensable. (Petition, p. 8.) We disagree. In *Atascadero*, the Court found an insufficient causal nexus between the psyche injury that allegedly arose from workplace gossip about the applicant's extramarital affair with a coworker and the finding of industrial causation based upon the fact that

the gossip occurred at work. The Court explained that “gossip about an employee's personal life is not part of the employee-employer relationship,” that the “off-duty affair had nothing to do with her employment,” and even though the gossip occurred at work, “the nature of her duties was not the proximate cause of her injury for it merely provided a stage for the event.” (*Id.* at p. 885.) The Court therefore found that “employment was not a contributory cause of the injury.” (*Ibid.*)

Here, unlike *Atascadero*, both applicant’s traumatic exposure and the daughter’s injury occurred at and during work. Further, aside from the initial trauma of seeing his daughter, applicant continued to be “triggered by cues associated with the accident” including “driving back to campus and returning to the location of the incident.” (Report, p. 7.) This was discussed within Dr. Howe’s reporting, wherein applicant noted that every day after the incident he “got very anxious going to work, occasionally so anxious he could not work at all.” (Exhibit A-1, p. 5.) Applicant also expressed “worsening symptoms” a week after the incident from seeing remnants from the scene of the injury while at work. (*Ibid.*) Given the above, we do not believe that applicant’s place of employment was “merely the stage” for his injury.

Applicant’s testimony at trial also supports the industrial nature of his injury. As stated by the WCJ in her Report:

“In evaluating the facts of the current case, including Mr. Brabant’s perception of a lack of safety for all students at his workplace, following the incident, when considered with his responsibilities as a teacher to ensure students’ safety on campus, employment appears to have played an active role in causing the Applicant’s PTSD as a significant and unique psychiatric condition. His need to return to the campus for work, on a daily basis, which increased his stress, would not have been necessary but for the fact that he was employed as a teacher at the high school where his daughter’s injury occurred. His actions on campus subsequent to the injury in reviewing and discussing the benches at the athletic track and discussing how to make the benches more safe was directly related to his employment responsibilities as a teacher at the school, and likely would not have occurred had he merely been the parent of an injured student. Although the Applicant did leave his classroom once a security guard came to take responsibility for his class, in order to go to his daughter, which relieved him of his teaching responsibilities on that day, employment in this case was a contributing factor, not merely a stage for a non-industrial event, as referenced in *Transactron, Inc. v. Workers’ Compensation Appeals Board* (1977) 68 Cal App 3d 233, 238; 137 Cal Rptr 142.

...

All agree that the Applicant’s psychiatric injuries were predominantly caused by the Applicant witnessing the aftermath of the Applicant’s daughter, Taylor’s, injury

at school, but Dr. Howe also notes that the Applicant's psychiatric injuries are triggered by cues associated with the accident, as well, which included driving back to campus and returning to the location of the incident. As a result of Applicant's sustaining injury from witnessing the aftermath of his daughter's injuries during the work day and on school premises, despite having left his classroom to attend to his daughter, since the work setting was not merely a stage but rather involved a unique risk created by having students of teachers on the same campus, it was determined that the Applicant's psychiatric injury arose out of and in the course of his employment with Salinas Union High School District."

(Report, pp. 5,7.)

Further, it is well established that any determination of compensability must be "guided by the...fundamental principle that the requirement is to be liberally construed *in favor of awarding benefits.*" (*Maheer v. Workers' Comp. Appeals Bd.* (1983) 33 Cal.App.3d 729, 732-733 [48 Cal.Comp.Cases 326], emphasis in the original; see also *Westbrooks v. Workers' Comp. Appeals Bd.* (1988) 203 Cal.App.3d 249, 253 [53 Cal.Comp.Cases 157.]) Therefore, "[a]ny reasonable doubts as to whether the act is contemplated by the employment, in view of this state's policy of liberal construction in favor of the employee, should be resolved in favor of the employee. (citation)" (*Western Greyhound Lines v. Industrial Acci. Com. (Brooks)* (1964) 225 Cal.App.2d 517, 520-521 [29 Cal.Comp.Cases 43.]

Lastly, although it is the employee's burden to demonstrate by a preponderance of the evidence that he or she sustained a compensable injury (Lab. Code, §§ 3600(a), 3202.5, 5705), the concept of what constitutes a work-related injury is broad. (*South Coast Framing, supra*, at p. 298.) 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, supra*, at p. 255; see also, *Latourette v. Workers' Comp. Appeals Bd.* (1998) 17 Cal.4th 644, 651-652 [63 Cal.Comp.Cases 253].)

Taking all the above into consideration, defendant's Petition is denied.

For the foregoing reasons,

IT IS ORDERED that defendant's Petition for Reconsideration of the May 16, 2025 Findings, Award, and Order is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ JOSÉ H. RAZO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

AUGUST 11, 2025

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

**CHRISTOPHER BRABANT
RUCKA, O'BOYLE, LOMBARDO, & McKENNA
D'ANDRE LAW**

RL/cs

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