

23-7264

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SUPREME COURT U.S.

ORIGINAL

NO: S282814

IN THE
SUPREME COURT OF THE UNITED STATES

Samreen Riaz
Petitioner/Plaintiff

Vs

Family Healthcare Network and
STAR INSURANCE COMPANY adj.
by ILLINOIS MIDWEST INSURANCE AGENCY
Nicholas perry-276439 Fresno Office: 5250 N.
Palm Avenue, Suite 402 Fresno, CA 93704
Phone: (559) 222-0660 Fax: (559) 222-2880

Defendant

- 1. Supreme Court of California
350 McAllister Street. San Francisco,
CA 94102-4797.
415-865-7000.
- 2. 5th District Appeal Court
2424 Ventura St, Fresno,
CA 93721(559) 445-5491
- 3. WORKERS COMPENSATION APPEALS BOARD
2550 Mariposa Mall, Suite 4078
Fresno, CA 93721-2219
Phone no : 559-445-5051

Respondents

WCAB Case No.: ADJ13458767
5th District Appeal Court No: F086457
Supreme Court Case No.: S282814

On Petition For Writ Of Certiorari To The California Supreme Court

PETITION FOR CERTIORARI

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Questions Presented:

.Did the Supreme Court of California (**S282814**)denial of petition of review on **Jan 10 24** left unresolved conflicted issue of law and factual issue?(see Exhibit A with Writ Certiorari) **Universal City Studios, Inc. v. Workers Comp. Appeals Bd. (1979)**

. Did the 5th District Appeal in error and abuse discretion in denying the Writ review on **Oct 26th 23 (F086457)**& left unresolved conflicted issues of law and factual issues?. **South Coast Framing v. WCAB**

. Did the Worker compensation appeal Board left unresolved conflict of legal issue and factual issue in the Decision dated **March 23, 22 ?**

. Was the WCAB and WCJ conclusion legally and factually sound?

Did Hoffman Md violate Wcab regulations?

.Did the Decision of WCab /WCJ considering disputed Hoffman report substantial evidence in violation of WCAB law? .(Insurance Co. of North America v. Workers Comp. Appeals Bd).(Hegglin v. Workmen's Comp. Appeals Bd. (1971)

.Were there any (Past)prior to injury at work medical records/ evidence produced regarding injured worker chronic condition ?

.Was chronic condition diagnosed AFTER injury of a worker at work(FHCN) in 2019?

.Was Permanent disability declared AFTER injury of a worker at work(FHCN) in 2019?

.Was the Injured employee entitled to WCAB benefits ?

. Was the injury of a worker reported at work a compensable injury underWCAB ?

.Did a worker report an injury at work in 2019 ?

.Was procedural misstep of judge failure to recuse when bias appears required reversal of decision?

.Was there any evidence available dated before injury at work that confirms plaintiff health free from any chronic injury?

. Was there evidence available confirming theHoffman report was a disputed matter? **Maxham v. California Department of Corrections (2017) 82 Cal. Comp. Cases 136 (Appeals Board en banc)**

.WAs legal complaint and dispute regarding Hoffman report is filed in the tulare court vcu289787 before WJL decision?

.Was injury resulted by the willful misconduct of the employer under **Labor Code section 4553 . ?** **Fermino v. Fedco, Inc. (1994), Johns-Manville, supra, 27 Cal.3d at pp. 472- 473**

.Did public interest involved when a lien amount of \$65,104.00 can be recovered from FHCN if awarded or funds released.(**public interest**)

. Did the Worker compensation appeal Board in error, showed biased and abuse discretion in the finding of facts, Order, And Opinion On the Decision dated **March 23, 22? .**

.Did the Worker compensation appeal Board make an error and abuse discretion when issuing an erroneous report and recommendation based on a petition for reconsideration and disqualification Of judge Debra Sandoval on **April 29th 22?**

. Did the Worker compensation appeal Board left unresolved conflict of legal issue and factual issue in denying Petition for reconsideration dated **March 25th 22?**

. Did the Worker compensation appeal Board made an error and abuse discretion by denying the request for disqualification of the WCJ(Worker compensation Judge) dated **May 25th, 23**(see exhibit A of supreme court of california pgs 4-12,38-39)

Are there questions of Constitutional violation 1st , 7th and 14th amendment of injured workers.

.Suggested Answer: Yes

Certificate Of Interested Parties:

This is the initial certificate of interested entities or persons submitted on behalf of Petitioner Samreen Riaz in the case listed above. Petitioner certifies that there are no interested entities that must be listed in this certificate under court rules.

List of all parties

List of parties appear in the caption of the case on the cover page and below.

.Family Healthcare Network

305 East Center Avenue,
Visalia, CA 93291 877-960-3426 — Main

Midwest Claims Center- STAR INSURANCE COMPANY-

Mailing PO Box 13369 Springfield, IL 62791-3369
California Phone: 866.642.2567
Fax: 866.642.1234

EDD Disability Insurance Employment Development Department Lien claimant,
PO Box 32 -Fresno, Ca 93707
tgiles@workforce-connection.com
DLEAMS5204@EDD.CA.GOV

Respondents

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**IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI**

Plaintiff is filing a writ of certiorari (Rule 10(a)) in the SUPREME COURT OF THE UNITED STATES as a matter of right of judicial discretion and presenting issues of injured worker compensation who was injured by illegal retaliation, harassment and discrimination at Family healthcare network by utilizing federal funds for the reason that she was about to testify in a court proceeding in a matter of (OSHA and HIPPA violation) public and government importance in an attempt to discredit her as a witness in violation of 1st amendment. The Supreme court of california, 5th district appeal court, WCJ and WCAB has decided federal questions in a way or entered a decision in conflict with the other United States court decision in the same important matter. The Lower court's decision is not supported by the entire record and made without considering the weight or persuasiveness of all the evidence. The entire evidence and record was not examined for fairness, reasonableness and proportionality in the overall scheme of the workers compensation law and the purposes sought to be accomplished by that law. Here the lower Court's decision is not within the realm of what a reasonable trier of fact could find. There is a question of fact regarding credibility of fabricated fraudulent disputed Hoffman reports which was considered substantial evidence by the WCJ and must be annulled. There is a question of law for the Us Supreme court whether there was legally sufficient evidence that supports findings of fact by wcab/WCJ regarding reaching factual conclusion that Hoffman report is substantial evidence in this case and whether the 5th district, Supreme Court Of California ,WCJ/WCAB applied independent judgment test as authorized by law to determine that findings of Hoffman report a substantial evidence is supported by the persuasiveness of weight of the evidence, witness, in the light of record and resolving of all conflicting interference or in violation of WCAB law. WCJ failed to resolve the conflict in evidence and not met standard when by simply isolated evidence(disputed, fraudulent) which supports the WCJ/WCAB decision and ignoring other relevant facts of record which rebut or explain the evidence. Lower courts departed from the accepted and usual course of judicial proceedings and a call for an exercise for this court supervisory power to reimbursed injured workers with award and benefit prescribed in WCAB process after violent retaliation. Judge Debra failed to recuse herself in an ethically, legally and moral manner once her partiality has been challenged due to biases and error. Petitioner is requesting the us Supreme Court to make a decision based on their individualized evaluation, guided by the principles of law.

.The 5th district appellate court on 10/26/23(F086457) and Supreme court of California decision(S282814) on jan 10 24 of previously denial of writ does not express those Court's view on the merits of the case but only signifies not accepting the case for review. ADJ13458767 .Writ of certiorari filed within 90 days and denial received from Supreme Court of California on Jan 10 24.

**IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI**

Petitioner respectfully request that writ of certiorari issued to review the judgment below Cases From State Courts:

OPINIONS BELOW

The Petition for review denied by the Supreme Court Of California (S2828214) on Jan 10 24 appears at **Appendix A** to the Petition.

.Denying the Writ review FO86457 on **Oct 26th 23** appears at **Appendix B** to the Petition.

Opinion and Order Denying of Petition for reconsideration dated May 25th 23 based on April 29 22 Report and recommendation appears at **Appendix C**.

Finding of facts, Order, And Opinion On the Decision dated **March 23, 22** Appear as **Appendix D**.

JURISDICTION

The date on which the Supreme Court of California (S281814) decided or denied discretionary review of petitioner case was Jan 10 24. A Copy of that decision appears at Appendix A.

The Jurisdiction of this Court is invoked under 28 U.S.C S 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED:

In resolving the petition for writ of review, we must determine whether the evidence, when reviewed in the light of the entire record, supports the Boards decision (**Universal City Studios, Inc. v. Workers Comp. Appeals Bd. (1979) 99 Cal. App. 3d 647, 656 [160 Cal. Rptr. 597]**; see **National Convenience Stores v. Workers; Comp. Appeals Bd. (1981) 121 Cal. App. 3d 420, 424 [175 Cal.Rptr. 378]**); and in doing so, we must consider the weight or persuasiveness of all the evidence, not just whether there is substantial evidence in favor of the respondent. (**Skip Fordyce, Inc. v. Workers Comp. Appeals Bd. (1983) 149 Cal. App. 3d 915, 920 [197 Cal. Rptr. 626]**).

However, this court is not bound to accept the WCAB's factual findings if determined to be unreasonable, illogical, improbable or inequitable when viewed in light of the overall statutory scheme. (**Bracken v. Workers' Comp. Appeals Bd. (1989) 214 Cal. App. 3d 246, 254 [262 Cal. Rptr. 537]**.)

We are not bound to accept the Boards factual findings where they are illogical, unreasonable, or improbable (**Insurance Co. of North America v. Workers Comp. Appeals Bd. (1981) 122 Cal. App. 3d 905, 911 [176 Cal.Rptr. 365]**), where they do not withstand scrutiny when considered in light of the entire record (**Duke v. Workers Comp. Appeals Bd. (1988) 204 Cal. App. 3d 455, 460 [251 Cal.Rptr. 185]**), or where on a case-by-case examination we discern an inequitable result when the record is examined for fairness, reasonableness and proportionality in the overall scheme of the workers compensation law and the purposes sought to be accomplished by that law. (**National Convenience Stores v. Workers Comp. Appeals Bd., supra, 121 Cal.App.3d at p. 424; Universal City Studios, Inc. v. Workers Comp. Appeals Bd., supra, 99 Cal.App.3d at pp. 658-659.**)

. Finally, where the Boards decision is not within the realm of what a reasonable trier of fact could find, the decision is not supported by substantial evidence and must be annulled. (**Skip Fordyce, Inc. v. Workers Comp. [214 Cal. App. 3d 255] Appeals Bd., supra, 149 Cal.App.3d at p. 921; Insurance Co. of North America v. Workers; Comp. Appeals Bd., supra, 122 Cal.App.3d at p. 911.**)

Unlike the court, the Board is empowered on reconsideration to resolve conflicts in the evidence, to make its own credibility determinations, and to reject the findings of the WCJ and enter its own findings on the basis of its review of the record; nevertheless, any award, order or decision of the Board must be supported by substantial evidence in the light of the entire record. (**Lamb v. Workmen Comp. Appeals Bd. (1974) 11 Cal. 3d 274, 280-281 [113 Cal. Rptr. 162, 520 P.2d 978]; Garza v. Workmens Comp. App. Bd. (1970) 3 Cal. 3d 312, 317 [90 Cal. Rptr. 355, 475 P.2d 451]; LeVesque v. Workmens Comp. App. Bd. (1970) 1 Cal. 3d 627 [83 Cal. Rptr. 208, 463 P.2d 432]**.)

.The foregoing standard is not met by simply isolating evidence which supports the Board and ignoring other relevant facts of record which rebut or explain the evidence. (**Lamb v. Workmens Comp. Appeals Bd., supra, 11 Cal.3d at p. 281; see Garza v. Workmens Comp. App. Bd., supra, 3 Cal.3d at p. 317.**)

.Factual findings of the Board are not supported by substantial evidence in light of the entire record where such findings are based upon inferences which cannot be fairly drawn from the evidence, based on evidence lacking probative force, or based on a purely fanciful

conclusion.(**Insurance Co. of North America v. Workers Comp. Appeals Bd**)

.Applying the cited authorities on the Boards power to reject the WCJs findings and substitute its own findings, we first note the Board majority patently disregarded the mandate that it review the evidence in the light of the entire record. (**Lamb v. Workmens Comp. Appeals Bd., supra, [214 Cal. App. 3d 257] 11 Cal.3d at pp. 280-281; Garza v. Workmens Comp. App. Bd., supra, 3 Cal.3d at p. 317; LeVesque v. Workmen s Comp. App. Bd., supra, 1 Cal.3d at p. 637. .**"the WCAB is not totally free of evidentiary rules. (See **Abron v. Workmens Comp. Appeals Bd. (1973) 34 Cal. App. 3d 232 [109 Cal. Rptr. 778]; Martinez v. Associated Engineering Construction Co. (WCAB en banc opn. 1979) 44 Cal.Comp.Cases 1012, 1018.**)

The evidence upon which the WCAB relies still must have some degree of probative force. (**Simmons Co. v. Ind. Acc. Com. (1945) 70 Cal. App. 2d 664, 670 [161 P.2d 702].**) [W]here, as here, the WCAB misstates the evidence and specifies erroneous reasons, its decision must be annulled. (**Guzman v. Workers Compensation Appeals Bd. (1984)**)

.After all, substantial evidence only exists where the inferences ... may fairly be drawn from evidence. (**Judson Steel Corp. v. Workers Comp. Appeals Bd., supra, 22 Cal. 3d 658, 664.**)

Substantial evidence does not exist where the trier of [121 Cal. App. 3d 428] fact has made a fanciful conclusion (**Simmons Co. v. Ind. Acc. Com., supra, 70 Cal.App.2d 664**) or has based the decision on the creation of nonexistent evidence [or] the creation of a conflict in the evidence which does not otherwise exist.(**Sully-Miller Contracting v. WorkersComp. Appeals Bd., supra, 107 Cal. App. 3d 916, 926.**)

.Although the employee bears the burden of proving that his injury was sustained in the course of his employment, the established legislative policy is that the Workmens Compensation Act must be liberally construed in the employees favor (**Lab.Code, § 3202**), and all reasonable doubts as to whether an injury arose out of employment are to be resolved in favor of the employee. (**Lundberg v. Workmens Comp. App. Bd., 69 Cal.2d 436, 439, 71 Cal.Rptr. 684.**) This rule is binding upon the board and this court. (**Id. at p. 439, 71 Cal.Rptr. 684.**) Moreover, although the board is empowered to resolve conflicts in the evidence (**Liberty Mut. Ins. Co. v. Industrial Acc. Com., 33 Cal.2d 89, 93; Pacific Freight Lines v. Ind. Acc. Com., 26 Cal.2d 234, 240--241**), to make its own credibility determinations (**McAllister v. Workmens Comp. App. Bd., 69 Cal.2d 408, 413, 71 Cal.Rptr. 697; Granco Steel, Inc. v. Workmens Comp. App. Bd., 68 Cal.2d 191, 197, 65 Cal.Rptr. 287; Alexander v. Workmens Comp. App. Bd., 262 Cal.App.2d 756, 758, 69 Cal.Rptr. 190; Wilhelm v. Workmens Comp. App. Bd., 255 Cal.App.2d 30, 33, 62 Cal.Rptr. 829**), and upon reconsideration to reject the findings of the referee and enter its own findings on the basis of its review of the record (**Lab.Code, § 5907; Buescher v. Workmens Comp. App. Bd., 265 Cal.App.2d 520, 529, 11 Cal.Rptr. 405; Wilhelm v. Workmens Comp. App. Bd., Supra; Montyk v. Workmens Comp. App. Bd., 245 Cal.App.2d 334, 335, 53 Cal.Rptr. 848**), nevertheless, any award, order or decision of the board must be supported by substantial evidence in the light of the entire record (**Lab.Code, § 5952; LeVesque v. Work mens Comp. App. Bd., 1 Cal.3d 627, 635, 83 Cal.Rptr. 208**)

. Questions of statutory interpretation are, of course, for this court to decide.(**Keulen v. Workers Comp. Appeals Bd. (1998) 66 Cal. App. 4th 1089, 1095-1096 [78 Cal. Rptr. 2d 500].**)(**Pestmaster Services, Inc. v. Structural Pest Control Bd. (1991) 227 Cal. App. 3d 903, 909 [16 Cal. App. 4th 234] [278 Cal. Rptr. 281];**

STATEMENT OF FACTS:

. Petitioner/injured worker is a 0.2 percent Muslim minority of Visalia, CA. Petitioner served as a licensed dentist from 2013 in California with no negative report related to mental competency till 2019. However, the Injured worker (Property) Dental license got revoked in June 2023 due to mental competency issues raised in 2021 by DBCA after injury at work Family healthcare network. Petitioner was injured at the Family healthcare network(from now on referred to as FHCN) in 2019 after a series of harassment incidents (whistle-blower retaliation) on a daily basis. Samreen Riaz was a witness and a participant in a Tulare superior court proceedings involving OSHA and Hippa Violation filed in Jan 2019 and was threatened with retaliation and negative consequences if she reached authorities to report OSHA and Hippa Violations by the Altura Attorney Russel Ryan. (see exhibit A of a case #: F086457 pgs 130-132, see exhibit B of a case #: F086457 pgs 4, 5 -75,76-93,489-490,352-353 and Exhibit F of this Petition).

It is undisputed in this case that Petitioner/Samreen Riaz filed a Worker compensation claim(now on refer as WCAB) that she sustained an injury at work on or about September 24, 2019, at Family healthcare network.(see exhibit A of a case #: F086457 pgs 145,147,148,150,125)

. It is undisputed in this case that Petitioner/Samreen Riaz claimed that injury resulted from emotional and psychological strain and trauma of many incidents of harassment at FHCN that were utilized at FHCN as a tool for whistle-blower retaliation and potentially to discredit court witness testimony.(See exhibit A of a case #: F086457 pgs 130-132, 111-123,133-135,140-142,145- 150,151-152,260-263, 4-95, see exhibit B of a case #: F086457 488,352-353)

. It is undisputed that Petitioner produced expert witness Cathy Meadow's testimony as a supporting document during the Worker compensation appeal board(from Now on refer as WCAB) process substantiating that Applicant is targeted with whistle-blower retaliation by utilizing businesses specialized in the destruction of personal human potential and psychological and physical health.(see exhibit B of a case #: F086457 pg 345_349)

.It is undisputed in this case that Petitioner/Samreen Riaz, on June 2, 2020, underwent QME Evaluation. (see exhibit A pg 260,128,129) .It is undisputed in this case that Petitioner/Samreen Riaz originated a complaint against the QME provider report on about Aug 23, 21. (Exhibit A of a case #: F086457 pgs 153-164,165-183, 227-256,188-263) .It is undisputed the dispute filed in Dec 2022 with the tulare superior court against hoffman MD for fraud and malpractice

in preparation of fraudulent report in the case vcu289787, before the outcome of the WCAB case. (See Exhibit A of a case #: F086457 pgs 185-225)

. It is undisputed in this case that applicant/Samreen Riaz Disputed the report based on Multiple Inaccuracies and discrepancies in the report.
. Associating multiple fabricated and false statements (negligently and fraudulently) associated with Applicant in order to reach the fraudulent or erroneous diagnosis of a medical condition.
. Evaluate Concealed known facts related to the reason for harassment from the report that Applicant's name has been flagged due to participating in court proceedings due to the new policy of the Donald Trump Government (Ex Parte communication)
. Qme provides attained information about flagging of applicants' names for harassment outside the QME process. (beyond the scope of the QME process). Report prepared by evaluating in less than the allocated time required. (see exhibit A of a case #: F086457 pgs 153-170).

. It is undisputed in this case that Petitioner/Samreen Riaz received the QME report first time in July, 21, from the attorney Ibarra David after he received the report. (Therefore submitted in violation of WCAB rule 8 CCR 38(a) (states, "shall not exceed 30 days") (see exhibit A of a case #: F086457 pgs 185-187).

It is undisputed in this case that the WCAB Debra Sandoval judge agreed with the QME Report that Petitioner has a moderate level of permanent psychiatric disability (pg 68, 69 of the report) and that disability is moderate permanent and stationary from June 2020. (see exhibit A of a case #: F086457 pg 11, 38, 106, 107, 7).

. It is undisputed in this case Petitioner provided a reasonable accommodation medical certificate from a health care provider on 10/8/19 at FHCN. However, FHCN declined the request for accommodation on 0/11/19 and terminated employment on 10/15/19 (see exhibit A pgs 90-93, exhibit B of a case #: F086457 pgs 24, 344)

. It is undisputed in this case that Petitioner/Samreen Riaz started seeing a first-time Psychiatrist in her lifetime Dwight Sievert in March 2019 with the chief complaint associated with ongoing profound harassment-related stresses and trauma after starting work at FHCN in January 2019. (see exhibit A of a case #: F086457 pg 141).

. It is an undisputed fact that Petitioner received disability benefits from the State of California EDD program based on physician certificate provided by Dwight Sievert on 11/01/2019 from Oct 16 2019-Oct 13, 2019, while the WCAB case was pending. (see Exhibit of a case #: F086457 pgs 96-111)

. It is an undisputed fact that the state of California (EDD) filed a notice of lien of amount \$65,104.00 on WCAB on 1/08/20 to maintain the right to recover the amount of \$65,104.00 from FHCN and the star insurance company(award) if awarded or funds released.(**public interest**)

.It is undisputed in this case that no medical or other evidence existed or was presented that can substantiate that the Petitioner had any history of a moderate level of permanent psychiatric disability before starting working at the family healthcare network.(**see exhibit B of a case #: F086457 pgs 97-98**)

.It is undisputed that WCAB judge Debra on March 23, 2022, considered QME report substantial medical evidence despite dispute raised with the credibility of the report. .It is undisputed WCAB judge Debra Sandoval issued a Finding of FACTS and OPINION that "Applicant did not sustain an injury arising out of and occurring in the course of employment to her psyche/stress" based on constituting QME Report substantial medical evidence.(**see exhibit A pg 8-11, 38, 39**).

. It is undisputed that Petitioner filed dismissed attorney Ibarra on April 02 22 due to attorney Ibarra's decision not to represent the petitioner in the appeal process.

. It is undisputed Petitioner filed a verified Petition for reconsideration and disqualifications of a judge about **April 8 22** (per report and recommendation and petitions for reconsideration and order first pg) (**see exhibit B of a case #: F086457 pg 293,291**)

. It is undisputed that despite the disqualification of judge Debra Sandoval's pending petition, on **4/29/22**, Judge Debra continued to issue reports and recommendations on "PETITION FOR RECONSIDERATION AND DISQUALIFICATION OF WORKER COMPENSATION JUDGE DEBRA SANDOVAL".

.It is undisputed that on May 25th 23, WCAB issued "OPINION AND ORDER ON DENYING APPLICANT "PETITION FOR RECONSIDERATION OF THE FINDING AND AWARD IN THIS MATTER AND DISQUALIFICATION OF WORKER COMPENSATION JUDGE DEBRA SANDOVAL.". (WCAB failed to act on the petition within 60 days of the filing of the Petition thru no fault of the applicant).(**see exhibit A of a case #: F086457 pgs 4-8**).

REASON FOR GRANTING PETITION:

There is a Compelling Reasons To Grant Writ due to this case broader implication beyond plaintiff or injured worker and involved **violation of 1, 7 and 14 amendment of constitution**. This case will shape legal precedent and impact future cases. This case has extraordinary circumstances where 0.2 percent muslim minority/injured worker was injured by utilizing **harassment, retaliation,**

discrimination by use of federal grants for injured worker being a witness in OSHA, HIPAA violation and waste of resources matter and attempting to discredit and punish injured worker/court witness . Once workers got injured further fraud committed by preparing fraudulent medical legal reports to defraud government, public and injured workers and the medical legal system.. It is an undisputed fact that the state of California (EDD) filed a notice of lien of amount \$65,104.00 on WCAB on 1/08/20 to maintain the right to recover the amount from FHCN and the star insurance company(award) if awarded or funds released.(public interest). There is an existence of a question of law, conflict or legal and factual issue between the decision of which review from the United States Supreme Court is sought on decision of supreme court, 5th district appeal court and WCAB/WCJ in this important matter. There is a question of law for the Us Supreme court whether there was legally sufficient evidence that supports findings of fact by wcab/WCJ regarding reaching factual conclusion that Hoffman report is a substantial evidence in this case.

Summary Of Arguments Presented:

A.Plaintiff Presenting Argument that Supreme Court of California , 5th District appeal court denied(F086457) Writ Review erroneously that has both Petitioner and Public Special and Beneficial Interest and failed to use their authority in accordance with law. The Writ of Review in this case involved matters of Public Rights, Constitutional Rights, Matter of Equal Right and Due process Violation matters that were improperly resolved by disregarding genuine issues of fact and Evidence . Petitioner Constitutional Rights have been violated such as 14th,7th and 1st amendment rights. There are questions of law(Denovo) in this case in which the lower courts failed to make an independent determination of the legal issues:

I. ARGUMENT PRESENTED FROM FINDING OF FACTS, ORDER, AND OPINION ON DECISION DATED MARCH 23 22.(see exhibit B of a case #: F086457 354-356)

J. Applicant argued that WCAB is in error and abuse discretion in the finding of fact that the QME Report Of Hoffman Micah M.D constitute a substantial medical evidence (see detail facts in exhibit A of a case #: F086457 pg 154,155-164,165-183,188-263)

The fact that the misdeeds alleged in the report constitute fraud claims, perjury (abuse of process), and crimes under Insurance Code sections 1871. . The applicant alleged that fraud in the disputed report is a violation of Insurance Code 1871.4, and the applicant is entitled to damages under Civil Code section 3294. .Qualified medical evaluator (from now on refers as QME) report and provider are in violation of (Intentional Misrepresentation or Fraud (C.C. §, 1710)Intentionally false/reckless misrepresentation of facts (C.C. § 1710(1))Concealment of facts (C.C. § 1709(3)), False promise without intent to perform it (C.C. § 1709(4)) (See Civ. Code, § 1709.) .The law of fraud is based upon both statutes and common law. *Mirkin v. Wasserman* (1993) 5 Cal.4th 1082, 1091. Opinions of a Fiduciary are Actionable. *Lynch v. Cruttenden Co.*1993) 18 Cal.4th 802, 808; *Bank of America v. Sanchez* (1934) 3 Cal.App.2d 238, 242. 16 Document received by the CA Supreme Court. .When a party states an opinion as a

fact, in such a manner that it is reasonable to rely and act upon it as a fact, it may be treated as a representation of fact. **12.32 Crandall v. Parks (1908) 152 Cal.772; Cohen v. S.A.S. Construction Co. (1983) 151 Cal.App.3d 941** Defendant knew that the representation was false, **Gagne v. Bertran (1954) 43 Cal.2d 481, 487**, .This conduct may also give rise to a breach of contract under appropriate circumstances. **Scott v. Pacific Gas Elec. Co. (1995) 11 Cal.4th 454**. "In order to lawfully hold a person to answer on the charge of perjury under [Penal Code] section 118, evidence must exist of a willful statement, under oath, of any material matter which the witness knows to be false.' **Cabe v. Superior Court (1998) 63 Cal.App.4th 732, 735.**) Perjury is also a specific intent crime. (**People v. Viniegra (1982) 130 Cal.App.3d 577, 584 69. -586.**) . Insurance fraud is a specific intent crime; the defendant must specifically intend to defraud a person with a false or fraudulent claim. (**People v. Scofield (1971) 17 Cal.App.3d 1018, 1025**) .The crime is complete upon the presentation of the claim, regardless of whether anyone is defrauded by or anything of value is taken or received in consideration for the claim. (**People ex. rel. Government Employees Ins. Co. v. Cruz, supra, 244 Cal.App.4th at pp. 1193-1194.**)

II. Applicant argued that WCAB is in error and abused discretion when relying on the Disputed QME Report Of Hoffman Micah M.D as substantial medical evidence in the finding of fact that the applicant didn't sustain an injury arising out and occurring in the course of employment.

.A reviewing court may not substitute its judgment as to the weight of the evidence for that of the magistrate, and every legitimate inference that may be drawn by the reviewing court from the evidence must be drawn in favor the information.' " (**People v. Williams (1988) 44 Cal.3d 883, 924- 925.**) ." the entire report and testimony must demonstrate the physician's opinion is based upon reasonable medical probability"(See **Lamb v. Workmen's Comp. Appeals Bd., supra, 11 Cal.3d at p. 281; McAllister v. Workmens Comp. App. Bd. (1968) 69 Cal. 2d 408, 416-417 [71 Cal. Rptr. 697, 445 P.2d 313].**) . Hence, the Board may not blindly accept a medical opinion that lacks a solid underlying basis and must carefully judge its weight and credibility. (**National Convenience Stores v. Workers Comp. Appeals Bd., supra, 121 Cal.App.3d at p. 426.**)(see detail facts in exhibit A of the case no F086457 pgs,111-123,130_132,133-152,153,154-164,165-183,188-263, See also Exhibit Bof the case no F086457 pgs 344,350-351,352-353,488,489-490,393-394) "[N]ot all medical opinion constitutes substantial evidence upon which the Board may rest its decision. Medical reports and opinions are not [214 Cal. App. 3d 256] substantial evidence if they are known to be erroneous, or if they are based on ... incorrect legal theories ... [or] on surmise, speculation, conjecture or guess(**Insurance Co. of North America v. Workers Comp. Appeals Bd., supra, 122 Cal.App.3d at p. 917; see Hegglin v. Workmens Comp. App. Bd. (1971) 4 Cal. 3d 162, 169 [93 Cal. Rptr. 15, 480 P.2d 967]; Place v. Workmens Comp. Appeals Bd. (1970) 3 Cal. 3d 372, 378 [90 Cal. Rptr. 424, 475 P.2d 656]; Guerra v. WorkersComp. Appeals Bd. (1985) 168 Cal. App. 3d 195, 199 [214 Cal. Rptr. 58]; Baptist v. Workers Comp. Appeals Bd. (1982) 137 Cal. App. 3d 903, 906 [187 Cal. Rptr. 270].**) "... final report was to a large extent based on surmise, speculation, conjecture, and guess, and thus did not constitute substantial evidence upon which the Board majority could rest its decision. (**Insurance Co. of North America v. Workers Comp. Appeals Bd., supra, 122 Cal.App.3d at p. 917; see Hegglin v. Workmens Comp. App. Bd., supra, 4 Cal.3d at p. 169; Place v. Workmens Comp. App. Bd., supra, 3**

Cal.3d at p. 378; Guerra v. Workers Comp. Appeals Bd., supra, 168 Cal.App.3d at p. 199; Baptist v. Workers Comp. Appeals Bd., supra, 137 Cal.App.3d at p. 906).

. III.Applicant argued that WCAB is in error and abuse discretion in the finding of fact that the applicant didn't sustain an injury arising out and occurring in the course of employment. (Section 3600).

. IV.Applicant argued that WCAB is in error as an abuse of discretion the ordering applicant will "APPLICANT TAKE NOTHING."

. Applicant argued that WCAB is in error in noting the fact that at the time of injury, the employer has furnished no medical treatment. Facts are that the plaintiff was seen on Sept 30th, Oct 8th, Oct 10th and, Oct 24th, Nov 24th, December 12th and for a follow-up visit on Jan 15, 2019, at Palm occupational medicine, a worker compensation health care provider provided by FHCN. However, Palm occupational medicine recommended the petitioner to seek remedy through a private health care provider with the reasoning to prevent liability to the insurance company. On Palm occupational medicine recommendation, Petitioner sought health services from Dwight Sievert and was also seen by the urgent care provider. Palm occupational medicine terminated health service after (the petitioner terminated from Employment at FHCN Oct 2019) insurance denied the prescribed session with the psychologist in Jan 2020. (see Exhibit A of a case #: F086457 pgs 140,145-150,143-144,123, exhibit B of a case #: F086457 pg 344) . Injury reported at work i n Sept 2019 and Employer failed to deny liability claim within 90 days establishes a presumption that an injury is compensable under the workers' compensation system under Labor Code section 5402 Honeywell v. WCAB (Wagner).

B: ARGUMENTS ON "OPINION AND ORDER DENYING PETITION FOR RECONSIDERATION FINDING OF FACTS, ORDER, AND OPINION ON DECISION AND DISQUALIFICATION OF JUDGE DEBRA Sandoval" (dated May 25, 23)

The above ruling based on two matters as follows :

. I: ARGUMENT PRESENTED ON RULING "OPINION AND ORDER DENYING PETITION FOR RECONSIDERATION FINDING OF FACTS, ORDER, AND OPINION ON DECISION:

. WCAB is in error and abused discretion when it failed to establish that WCJ failed to not only consider evidence produced before her and further failed to resolve the conflict in evidence in favor of the (petitioner / injured employee) when injured employee evidence out weighed the opposing party's evidence. (see detail facts in exhibit A of a case #: F086457 pgs 111-123,130_132,133-152,153,154-164,165-183,188-263, See also Exhibit B pgs 344,350-351,352-353,488,489-490, 5-95).

. WCAB is in error and abuse discretion when failing to establish WCJ erroneously interprets the evidence including establishing of the QME report as substantial medical evidence. (see detail facts in exhibit A of a case #: F086457 pg 153-263) . and erroneously weighing the credibility of the evidence, without considering conflict evidence, By interpreting evidence erroneously, By

erroneous finding.No adequate investigation done to review misdeed,, fraud after false and fabricated statements associated with injured worker in Hoffman MD report reported to the wcab

.The compensation bargain anticipates that an insurer may commit various misdeeds during the claims process, including some criminal acts. (See **Fermino, supra, 7 Cal.4th at p. 723, fn. 7; Vuillemin Roy v. American Rock & Asphalt, Inc. (1999) 70 Cal. App. 4th 1280, 1286-1287 [83 Cal. Rptr. 2d 269]** .Some investigation may be required if it seems apparent that the representations were false. **Roland v. Hubenka (1970) 12 Cal.App.3d 215, 224-225** .Reasonableness should be judged by the particular circumstances of the case. **Dow v. Swain (1899) 125 Cal.674, 683; B.A.J.I. 12.52 (Use Note); Rest. 2d Torts § 545A, Comment B**

II: ARGUMENT PRESENTED ON RULING DISQUALIFICATION OF JUDGE DEBRA Sandoval:

Worker compensation appeal Board is in error and abuse discretion when denied Petition For Reconsideration and Disqualification based on judge Debra Sandoval recommendation dated 4/29/22 and when failed to disqualify Judge Debra (on May 25th, 23) when she failed to recuse herself from the case in which her partiality was challenged and further gave a recommendation on 4/29/22.(see **Exhibit B of a case #: F086457. Evidence Petitioner filed Judge Debra disqualification due to appearance of biased see pg 289-293, 105. 294-333).**

.Biased appeared due to "coincidental link" of name Debra lobo with violent Hate crime toward injured worker and coincidental assignment of judge Debra in addition to the ruling in case made with no merits **See Exhibit B of a case #: F086457 Pg 334-340,341 ,342-353,360-377**

. Evidence support biased

.Filed Chp comp car crash,See exhibit B of a case #: **F086457** pgs 396-425.

.Chp cover up/prep False report See exhibit B of a case #: **F086457** pgs 426-439,449-460

.Petitioner statement on Aug 2 21 cover up of violent car crash / hate crime incident related to Debra lobo name association,See exhibit B of a case #: **F086457** pgs 436-439.

.Chp role cover up of car crash hate crime,See exhibit B of a case #: **F086457** pgs 449-460,

.Evidence of Car damage and cost repair exhibit B of a case #: **F086457** pgs 479-487,

.Chp past relevant misconduct,See Exhibit B of a case #: **F086457** pgs440-448.

.Evidence ignorance of WCJ intimidation of witnesses in court proceedings See case #: **F086457** Exhibits pgs 117-284, 389-390,389-390,114-115.

.Evidence WCJ ignored dispute present with the QME report of a case #: **F086457** Exhibits pgs,112,113-115,394-394

.WCJ was aware that petitioner was asked to resign from Fhcn and terminated of a case #: **F086457** exhibit B 394,395,489-490.

. WCAB is in error and abused discretion when it failed to disqualify the worker compensation judge (from now on refer as WCJ) when WCJ formed or expressed an unqualified opinion, not on merits (**code of civil procedure section 641(f)**) by considering conflicted QME reports substantial medical evidence, without evaluating conflicting evidence, entire medical record, Cathy meadows testimony and dispute filed against . QME report based on fraud.

. . WCAB is in error and abused discretion When expressing an unqualified opinion, opinion was made not based upon the evidence presented before the WCJ or failed to apply the law to the evidence presented.(**see all above evidence mentioned from case #: F086457 Exhibit A and B**)

. WCAB is in error and abused discretion when failed to disqualify WCJ when Judge Debra speculate diagnosis of the petitioner based on the pleading argument made by the petition in motion to disqualify WCJ and further disregard the petitioner's arguments with the same speculative diagnosis reasoning instead of establishing it on evidence available and facts filed to the case; it amounts to prejudice and abuse of process. (**code of civil procedure section 641(g).**(**See case #: F086457 exhibit B pgs 343,345-349**) .Due process is violated when there is even an appearance of bias or unfairness in administrative hearing .**yaqub v Salinas valley memorial healthcare system (2004) 122 Cal app 4th 474, 483-486. (haas v County of San Bernardino (2002) 27 Cal. 4th 1017,1024-1027.**

. WCAB is in error and abused discretion when it failed to recognize WCJ's appearance of bias toward the injured employee thru evidence and facts presented related to the existence of a potential evincing enmity against the appellant and toward the opposition. **Labor Code section 5311, WCAB Rule 10452, and CCP sections 170.1(a) and 641.**

. WCAB is in error and abused discretion when it failed to disqualify WCJ when the petitioner stated in detail specific facts establishing one or more grounds for disqualification of WCJ. (**pursuant to Cal. Code reg tit 8 S 10960 pursuant to labor code 5311 and code of civil procedure 641(f), 641(g)**) . WCAB is in error and abuses discretion when substantiating that WCJ's bias was based on evidence given during trial, when in fact, Judge Debra failed to resolve conflict in favor of the petitioner whose evidence outweighs the opposition.

. WCAB is in error and abuse discretion when denied the petition for disqualification of Judge Debra with the reasoning petition was not declared under the penalty of perjury when the Report and recommendation by Judge Debra confirm that the "applicant filed a timely, verified petition for reconsideration and disqualification".(**see case #: F086457 exhibit B pgs 341,293,294, see exhibit A pg 8**)

. WCAB is in error and abused discretion when it failed to act on the petition within 60 days of the filing as the prescribed time limit under labor code section 5909 thru no fault of the petitioner, and the delay showed an appearance of bias.

C: ARGUMENT PRESENTED FROM WCJ REPORT AND RECOMMENDATION ON PETITION FOR RECONSIDERATION AND DISQUALIFICATION(date of order: 4/29/22)(see case #: F086457 exhibit A pg5-11) .

WCJ Debra's error and abuse of discretion when she herself failed to recuse herself from the case in which her partiality was challenged and further gave a recommendation on 4/29/22 as discussed in above paragraphs.

.Discrepancies in the Introduction Section of Report and Recommendation:

.WCJ Debra Sandoval made an inaccurate statement in an introduction section that the applicant claim to have sustained injury arising out of and in the course of employment TO HER PSYCH/STRESS. However, Petitioner never claimed injury arising out of and in the course of employment due to TO HER (in other words, her personal or private) PSYCH/STRESS. Petitioner alleges stress or mental and emotional Injury or trauma caused by a series of harassment incidents at (FHCN) work. (see above paragraph discussion related injured employee evidence out weighted the opposing evidence. (see detail facts in case #: F086457 exhibit A pgs 111- 123,130_132,133-152,153,154-164,165-183,188-263, See also case #: F086457 Exhibit B pgs 344,350-351,352-353,488,489-490, 5-95,393-395).

. WCJ Debra Sandoval is in error and abused discretion when found on March 23 22 that Micah Hoffman MD QME REPORT constitutes substantial medical evidence, Applicant did not sustain an injury arising out of and occurring in the course of employment when ordered that " Applicant will take nothing as a result of her claimed injury. (see detail facts in case #: F086457 exhibit A pg 154,155-164,165-183,188-263)

. WCJ Debra Sandoval acknowledged that on April 8th, 22, applicant filed and served a timely verified, Petition For Reconsideration/Disqualification disputing The Finding And Order Of The Court. (see case #: F086457 exhibit B pgs 341,293,294, see exhibit A pg 8))

. WCJ Debra Sandoval not only failed to recuse herself when the petition for disqualification was pending but also failed to prepare a recommendation on the merits Of the petition as discussed in above paragraphs.

ARGUMENT PRESENTED ON RULING DISQUALIFICATION OF JUDGE DEBRA Sandoval and fastened evidence as exhibit B with specific pg no mention in that section.

.Discrepancies in the FACTS Section of the Report and Recommendation:

.WCJ Debra Sandoval showed bias when in "II:Facts Section " **only presented facts and explanation from QME provider report and failed to present Facts that report content is controversial and disputed by Petitioner based on Fraud and other inaccuracies. (see exhibit A pg8-11)**

. WCJ Debra Sandoval failed to present ANY FACTS in an unbiased manner related to the dispute associated with the QME report and concealed all the disputed facts. The report was in dispute due to multiple fabricated and false statements(negligently and fraudulently)associated with Petitioner in order to reach the fraudulent or erroneous diagnosis of a medical condition, Concealing known facts from the report when QME provider himself informed Petitioner that he is the aware reason of harassment of Petitioner is that her name has been flagged due to participating in court proceeding due to new policy of Donald trump Government . Qme provider attained information about the flagging of Petitioner name for harassment outside source from the

QME process. (beyond the scope of QME process),,Report prepared by evaluating plaintiff in less than the allocated time required. Qme provider made untruthful statements and concealed known facts from the case under the penalty of perjury. Ex Parte communication of Hoffman MD with sources outside QME compromised his objectivity in preparing the report.

.WCJ Debra Sandoval showed biased, is in error, and abuse direction when established as FACT "The doctor reviewed the complaints and allegations made by the applicant as set forth in multiple) without mentioning that Report was disputed by the Petitioner due to fabricated statement association, Concealing known facts from the report by the evaluator who was aware reason of harassment of Petitioner, or flagging of her name due to participating in the court proceeding pursuant to new policy of Donald trump Government. Judge debra **failed to present fact presented facts related to expert witness Cathy Meadows testimony related to whistleblower retaliation.**(see exhibit A pgs 154-263)

.WCJ Debra Sandoval showed biased, is in error and abuse direction when established as FACT" The doctor also reviewed the applicant's prior medical records and conducted psychiatric testing" without mentioning that Report was a disputed matter and that the prior(Before the plaintiff started working FHCN) **medical record does not indicate any disability or psychiatric long-standing chronic condition. All medical records from. Palm occupational, Dwight Sievert, and immediate care center indicate injury occurred at work, and the petitioner presented with complaint stress or trauma of harassment at work. The petitioner presented no psychotic symptoms per Dr sievert's encounter reports, and the medical record does not indicate a diagnosis of CHRONIC or long- standing psychiatric illness, the disparity of result of the mmpi II test taken by a third party on behalf of Hoffman md and schuyler when both tests taken in close proximity.**(see detail facts in exhibit A pgs 141,142,151, 111- 123,130_132,133-152,153,154-164,165-183,188-263, See also Exhibit B pgs 344,,352-353,488,489-490, 5-95,393-395, Mmpi II test discrepancies see exhibit A pg 176-177).

.WCJ Debra Sandoval showed biased, is in error, and abusive direction when establishing a unilateral FACT " Dr. Hoffman indicated that the applicant meets diagnostic criteria for an unspecified psychotic disorder with long-standing paranoia and delusion"(id at pg 67) without mentioning that Petitioner disputed the QME report based on fabricated statement associated with the plaintiff, Concealing known facts from the report when QME provider himself informed Petitioner that he is the aware reason of harassment of Petitioner is that her name has been flagged due to participating in court proceeding due to new policy of Donald trump Government, by willfully ignoring the preponderance of evidence available in reaching the sudden, recent or new diagnosis of a lifelong chronic condition.

.WCJ Debra Sandoval showed biased, is in error and abuse direction when established it as a FACT" In discussing causation,... from Hoffman MD report" Withing reasonable medical probability, the actual event of employment were not predominant(50%)to all the causes combined to have produced a psychiatric injury". without mentioning that Petitioner disputed the report of QME based on fraud, all medical evidence indicates injury occurred at work, no evidence of disability or chronic illness before employment at FHCN, **the preponderance of**

documented correspondence provided at FHCN and Cathy's report testimony corroborates with the statement shared by Hoffman md himself regarding flagging of petitioner name or whistleblower retaliation is a reason for petitioner harassment.

WCJ Debra Sandoval showed biased, is in error and abuse direction when established it as a FACT from discussion Hoffman MD controversial report "This injury does not meet requirements under section 3208.3 for predominant cause."

. In fact, petitioner injury meet the criteria of **Section 3208.3** as the psychiatric injury occurred due to (well document medical record and preponderance of numerous reported incidences of harassment at FHCN) stress and trauma of harassment at work which led to placement of petitioner on disability and need for medical treatment, and is a compensable by wcab.(**see relevant above paragraphs and evidence attached in exhibit A and B**)

.WCAB accepted the Qme provider as he met section **Section 139.2** in a report which discussed disability . Petitioner established by a preponderance of the evidence that actual events of employment were predominant to all-cause combine of the psychiatric injury as discussed in above paragraphs.

. Petitioner demonstrated by a preponderance of the evidence that injuries resulted from being a victim of a violent act or from direct exposure to a significant violent act, or actual events of employment were a substantial cause of the injury.

. WCJ report and recommendation on the petition to reconsideration stated. on pg 6 that actual events of employment were not predominant less than (50 %) to all the causes to have produced a psychiatric injury . For the purposes of this section,**substantial cause means at least 35 to 40 percent of the causation from all sources combined."** section **3208.3(3)** Wcj is in error when noted on pg 6 of the report and recommendation on the petition to reconsider that . " This injury does not meet the requirement under section 3208.3 for predominant cause."

. Although the QME report is disputed due to various defects, including fraud, for the sake of argument, if goes with the Hoffman MD statement of the report and recommendation on the petition to reconsideration that actual events of employment were less than (50 %). still meet the requirement **under section 3208.3** as per the requirement of at least 35 to 40 percent or less than (50 %).

.Petitioner has been employed by that employer for at least six months. The psychiatric injury is not caused by a sudden and extraordinary employment condition but day to day retaliation,harassment and discrimination incidents.(**see Exhibit**) **under section 3208.3(d)** . Petitioner claims compensable injury before notice of termination of employment or layoff, and the claim is for an injury that occurred prior to the time of notice of termination or layoff , under section 3208.3 e).

.Petitioner demonstrates by a preponderance of the evidence that actual events of employment were predominant as to all causes combined of the psychiatric injury.

The employer was notified of the psychiatric injury prior to the notice of termination or layoff. (exhibit B pg 344) .

The employees medical records existing prior to notice of termination or layoff contain evidence of treatment of the psychiatric injury.(3208.3 (3)).

There was a preponderance of evidence provided related to the finding of sexual or racial harassment by any trier of fact, whether contractual, administrative, regulatory, or judicial. (see exhibit B pgs 4- 95,345) 3208.3 (4).

See Evidence that the date of injury (as specified in Section 5411 or 5412) is before the date of the notice of termination. 3208.3 (5) .Petitioner met the burden of proof asserting that psychiatric injury was substantially caused by unlawful, discriminatory,bad faith actions. (see above mentioned paragraph discussion and attached evidence, exhibit B pg 5-95, exhibit A pg 130-263) 3208.3 (h) .

The petitioner was injured by the serious and willful misconduct of the employer. Labor Code section 4553 dictates that the employee's recovery is increased by one-half. (See Johns-Manville, supra, 27 Cal.3d at pp. 472- 473.) .

. WCAB division failed to provide information concerning psychiatric injury prevention programs. In violation of section 3208.3 (i) . "the division shall provide the employer with information concerning psychiatric injury prevention programs"3208.3 (i).

.WCJ Debra Sandoval showed biased, error, and abuse direction when establishing it as a FACT from the discussion of Hoffman MD report "100% of the psychiatric injury, in this case, can be attributed to the applicant's unfortunate chronic psychotic illness, which is not industrial in nature in any way(Id.at pg. 68.) Without mentioning that Applicant disputed the report of QME based on fraud, associating fabricated statement with the pt, concealment of knowledge of retaliation of patient that was gained thru ex parte communication and no evidence was produced in the form of medical records that established or corroborate with newly established chronic psychotic illness in 2020 .

.WCJ Debra Sandoval showed biased, is in error and abuse direction when established it as a FACT" He noted that the e-mails submitted by the applicant were disjointed and filled with the writings of someone with a psychotic illness who is interpreting all of these actions as being done against her in a way that's just not consistent with reality"without mentioning that the QME report was disputed due to fraud content in it, never referred to Cathy Meadows's expert witness testimony related to whistleblower retaliation and without reasoning how Hoffman MD by evaluation emails submitted in 2019 based on incidence of retaliation in 2019 at FHCN (Employer) came up with new diagnosis of a "PAST" lifelong chronic psychotic condition. Judge Debra showed biased and error when failed to consider that QME provider himself informed Petitioner that he is aware of reason of harassment of Petitioner and that plaintiff r name has been flagged due to participating in court proceeding due to new policy of Donald trump Government, by willfully ignoring the preponderance of evidence available in reaching the

sudden, recent or new diagnosis of a lifelong chronic condition.

. WCJ failed to note that QME providers are **not Qualified to detect crime**. It is outside the scope of experts to confirm or deny if the incident of harassment in reality occurred; Qme evaluates are limited to assessing ethically(not associating fabricated statements or concealment) human behavior and do psychological analysis and making opinions on it. However in this case QME provider concealed in a report his personal knowledge(thru ex parte communication outside Qme) of reason of plaintiff injury related to plaintiff name being flagged due to participating in court proceedings due to new policy of Donald trump Government.

.WCJ Debra Sandoval showed biased, is in error and abuse direction when established it as a FACT” The results of the Minnesota Multiphasic Personality Inventory showed that .the applicant views the world as a threatening place, .sees herself as having been unjustly blamed for others; problems, and feels that she is getting a raw deal out of life. (Id, pg. 59.) “ and failed to present facts from the applicant’s side where the applicant disputed the report and above statement as her overall viewpoint.

.WCJ Debra Sandoval showed bias, is in error, and abuses direction when established as a FACT. “It also showed that she tends to view the world in highly negative manners and usually develops a worst- case scenario to explain events affecting her” and failed to present facts from the applicant’s side that she disputed the report and above statement as her overall viewpoint. .

WCJ Debra Sandoval showed biased, in error, and abuse direction when establishing it as a FACT “She tends to worry to excess and interprets even neutral events as problematic. (Id. at pg. 60.)” and failed to present facts from the applicant side that she disputed the content of the report and above statement as her overall viewpoint.

. Discrepancies in the Discussion Section of the Report and Recommendation:

A. WCJ Debra Sandoval is in error and abuses discretion when established. The applicant alleges The undersigned showed bias or the appearance of bias in preparing the finding of facts, order and opinion, and decision by mentioning reason only on the basis of Vocabulary, Symbol . . However, Plaintiff alleged that Judge Debra was aware of the facts that Plaintiff filed reasonable doubt that Judge Debra was impartial and could not remain impartial and unbiased after knowing about “petition to disqualification “ in future proceedings toward Samreen Riaz, a petitioner . Reasonable to anticipate may developed adverse feelings as the petitioner challenged Judge Debra ruling based on bias and partiality.

.Petitioner raised questions regarding Debra's name utilization and association with the privacy intrusion, intimidation, and organized violent hate crime of the petitioner. .Argued that Judge Sandoval acted in excess of It power as no material Facts Support her Order Finding and disregarded elements of fraud in the QME report and that she may in future be overly solicitous toward Plaintiff in order to preserve her appearance of neutrality, which is already dubious.

. WCJ Debra Sandoval is in error and abuses discretion when it establishes the applicant does

not provide any evidence or credible arguments to support the allegation. .See above paraphs for evidence and discussion related to coincidence of (potentially organized) violent car crash hate crime documented evidence (right after discussing“ Deborah Lobo” in petitioner house privacy), the coincidence of assigning Lobo’s name chp officer who tried to cover up hate crime, and the coincidence of assignment of WCJ Debra on petitioner case about the same period of time.

. WCJ Debra Sandoval is in error and abused discretion when found” it appears the most of her allegation consists of the undersigned not finding in her favor as evidence of bias and discrimination” without discussing finding is relied on constituting Qme report substantial medical evidence when the content of the report was disputed thru Qme complaint process for associating fabricated statements, concealment of facts.

. WCJ Debra Sandoval showed biased, in error, and abuse discretion when she went outside the scope of WCJ and speculated diagnoses or gave a medical opinion on the petitioner (without petitioner/litigant consent to be evaluated as a patient by WCJ Debra Sandoval) state of mind based on arguments made in the pleading of the petition of disqualification of WCJ Debra of litigant by stating “ many of the allegation applicants makes support Dr. Hoffman Diagnosis of a psychotic disorder with paranoia and delusion.” instead of applying law equally.

.In addition, Judge Debra’s contention that at the very top level of WCAB, wrongdoing is not possible has no merit.. A few examples are Senate Judiciary Courts Subcommittee Chairman Sheldon Whitehouse’s (D-RI) report in their Captured Courts series on the dark-money group the Judicial Crisis Network (JCN) and its role in a scheme to capture and control the Supreme Court(. <https://www.whitehouse.senate.gov>).another example is . **United States v. Donald J. Trump and Waltine Nauta** is a federal criminal case against Donald Trump, the 45th president of the United States.

. WCJ Debra Sandoval is in error and abuses discretion where speculating petitioner salary increases the same year and announced at the day of her performance evaluation is not true. Assistant mirenayet verbally informed the petitioner of her performance he considered good an equivalent to other dentists in a similar position .WCJ Debra Sandoval is in error and abuses discretion when making an opinion on speculations without any supporting evidence produced otherwise (as it does not exist)against petitioner contention of her salary increase.

.WCJ Debra Sandoval is in error and abused discretion when she failed to reconsider . “Applicant contends that it was an error to rely upon Dr. Hoffman’s QME report.” . WCJ Debra Sandoval is in error, and abuses discretion when establishing Dr. Hoffman’s QME report as substantial evidence of a medical opinion when not framed in terms of .reasonable medical probability, .was speculative, .based on fabricated facts and .lack pertinent facts, concealment of facts Not based on adequate examination, set forth reasoning in support of its conclusions based on inaccurate, fabricated concealment of facts, Ignored preponderance of the evidence, produced after the allocated time required by QME .

WCJ Debra Sandoval is in error and abused discretion when she failed to establish . A dispute existed with the QME provider Hoffman related to time spent on the interview when only

indicated, "His report indicates that he spent 1.5 hours in a face-to-face interview with the applicant. (Exhibit A, supra, pg. 6.) "

. Discrepancies in the Diagnosis and Conclusion Section of the Report and Recommendation:

WCJ Debra Sandoval is in error and abused discretion when she failed to noted or establish Dispute existed with the diagnosis and conclusion presented in QME provider Hoffman report due to numerous defects in the report, including a fabricated statement fraudulently associated with applicant, Hoffman MD shared personal Knowledge of retaliation and harassment of applicant for the reason that her name was flagged as the policy of Donald Trump's new govt policy and ignored the preponderance of evidence where stress and trauma of harassment and retaliation incidents at work was the main factor of injury .

.WCJ Debra Sandoval is in error and abuses discretion when failed to note or. establish that opinions in QME provider Hoffman report are Disputed as they were based on the concealment of known facts by the evaluator related to harassment (flagging of petitioner name), associating fabricated statement with the applicant to reach a fraudulent opinion and other discrepancies in the report .

WCJ Debra Sandoval is in error and abuses discretion and speculates when established opinions of the QmE provider were supported by the "documents submitted by the applicant that was filled with the writings of someone who has a psychotic illness." The applicant provided a preponderance of evidence indicating retaliation in the form of harassment at at family healthcare network in 2019. (**it is consistent with expert witness Cathy Meadows's report, corroborating statements from another individual**) . In addition, the preponderance of evidence provided to Hoffman md is consistent with Hoffman md personal knowledge and the statement about applicant's name being flagged due to the new policy of Donald Trump which he gained from source outside Qme thru ex parte communication. Therefore Hoffman is not even speculating diagnoses based on "documents submitted by the applicant" but there is a fraud element when Hoffman, MD concealed known facts and added fabricated statements to produce false opinions. However, Hoffman MD's opinion of the chronic condition is based on the incidence of harassment reported at the family healthcare network in 2019, where Hoffman md failed to reasonably explain why chronic condition symptoms appear in the form of harassment at family health care only and not recorded or reported in the past medical record. There is no evidence that the applicant had any chronic psychiatric condition before she started working at the family healthcare network. The chronic psychotic condition was diagnosed by Hoffman MD the first time in 2020 , after injury reported in 2019 at work based on false, fabricated statements and concealed known facts to him from the report.

.WCJ Debra Sandoval is in error and abuses discretion when establishing Hoffman md opinion. " interpreting that all the actions described were being done against her in a way that is not consistent with reality" when WCJ was made aware . that the report was being disputed for fraud. Hoffman MD reached an opinion based on the association of fabricated statements with the applicant.Hoffman MD is a psychiatrist and has no expertise to confirm or deny if the incidence of

harassment occurred or not occurred at work. However, in the petitioner's case, he shared having personal knowledge of the flagging of petitioner names due to the policy of Donald Trump govt, and there is no reason for speculation.

.Due to all reasoning given in the review WCJ Debra Sandoval is in error and abuse discretion when establishing "Hoffman's conclusions are well reasoned," .WCJ Debra Sandoval is in error and abused discretion when establishing that the QME provider conclusion was "supported by the doctor's examination and diagnostic testing," knowing the QME report conclusion, examination, and testing results were disputed based on an association fabricated statement , inaccurate information and concealment of facts, ex parte communication, ignoring preponderance of evidence, diagnostic testing result test result was disputed due to discrepancies among two mmpi 2 test taken in close proximity to each other but has major differences in results. .Therefore, WCJ Debra Sandoval is in error and abuse discretion when established QME reports constitute substantial medical evidence and abuse discretion when relied upon QME report.

.WCJ Debra Sandoval is in error and abuse discretion when potentially discharged her judicial duties with bias or prejudice toward applicant, with improper or potential illegal purpose, not presented facts honestly under penalty of perjury, presented fact unilaterally .

. WCJ Debra Sandoval is in error and abuse discretion when recommended to deny the petition based on considering that QME reports substantial evidence knowing content is disputed and failed to introduce facts in the recommendation that report and its content was disputed petitioner is harmed for being a court witness by potential tampering of a witness effort(**in violation of § 1512**) .

. Memorandum Of Point And Authorities : .

Report is not substantial evidence : Qme provider Hoffman report is in violation. Of **Labor Code § 4628.32 . Labor Code § 4628.1) , § 10606, in violation of Regulation 8 Cal. Code Reg. § 10606(9) amp; in violation of Regulation 8 Cal. Code Reg. § 10606(14) (Reasons for the opinion)** .QME Hoffman MD was involved in ex parte communication in violation of subdivision (e), therefore the aggrieved party has a right to elect to terminate the medical evaluation report according to **Section 4062.1 or 4062.2, 229. See Labor Code § 4062.3 and Regulation 8 Cal. Code Reg. § 35 and WCAB en banc decision Maxham v. California Department of Corrections (2017) 82 Cal. Comp. Cases 136 (Appeals Board en banc)**. Hoffman Md did not offer declaration or affidavit under penalty of perjury with any statement declining injured worker claim of fabrication of statement.

. Labor Code § 4628(e) states, "Failure to comply with the requirements of this section shall make the report inadmissible as evidence and shall eliminate any liability for payment of any medical-legal expense incurred in connection with the report."

. In addition, regulation 8 Cal. Code Reg. § 10606(c) reads, "All medical-legal reports shall

comply with the provisions of Labor Code Section 4628. ... failure to comply with the requirements of this section will not make the report inadmissible but will be considered in weighing the evidence." . In any event, failure to comply with any part of these rules usually means that the report does not constitute substantial evidence upon which a judge can rely as a basis for their opinion on a particular legal issue.

.WcJ failed to note that the reporting physician failed to perform duty reasonably, lawfully, without concealment (fraud element) **under section. 4663(c)** while preparing the QMe report.

. WcJ failed to note QMe report causation not based on reasonable medical probability and not corroborate with the entire medical record available.

. QME provider in a report reached a conclusion based on "reasonable medical probability" by associating Fabricated statement with the applicant , concealment of known Fact from QME, will full negligence in weighing preponderance of evidence:

.One of the one most frequently missed issues is the use of the term "reasonable medical probability" by evaluating physicians, which is required in order for a physician's conclusion to constitute substantial evidence. (See **Escobedo v. Marshalls (2007) 70 Cal. Comp. Cases 604 (Appeals Board en banc).**)

. "The Court explained that for the physician to conclude that the industrial injury did not occur based on the applicant's delay in reporting the incident was speculative." **Place v. WCAB (1970) 3 Cal.2d 372, 35 Cal. Comp. Cases 525**, .The physician must use the correct legal theory. (See **Zemke v. WCAB (1968) 68 Cal.2d 794, 33 Cal. Comp. Cases 358 (Supreme Courtin Bank)**)

.The physician's opinion may not be based on "surmise, speculation, conjecture or guess." (See **Garza v. WCAB (1970) 3 Cal.3d 312, 35 Cal. Comp. Cases 500 (Supreme Court in Bank)**)

.The physician's report must NOT be "based upon inadequate medical history or examinations." (See **West v. IAC (1947) 79 Cal. App. 2d 711, 12 Cal. Comp. Cases 86**) .

The Criteria to medical opinion must meet to constitute substantial evidence on the issue of permanent disability and on Issue of relative percentage of industrial and non industrial causation:

. Nevertheless, the mere fact that a report "addresses" the issue of causation of the permanent disability and makes an "apportionment determination" by finding the approximate relative percentages of industrial and non-industrial causation does not necessarily render the report one upon which the WCAB may rely. This is because it is well established that any decision of the WCAB must be supported by substantial evidence. (Lab. Code, §5952(d); **Lamb v. Workmen's Comp. Appeals Bd. (1974) 11 Cal.3d 274, 281 [39 Cal.Comp.Cases 310]**; **Garza v. Workmen's Comp. Appeals Bd. (1970) 3 Cal.3d 312, 317 [35 Cal.Comp.Cases 500]**; **LeVesque v. Workmen's Comp. Appeals Bd. (1970) 1 Cal.3d 627, 635 [35 Cal.Comp.Cases 16]**.) .

.In this regard, it has been long established that, in order to constitute substantial evidence, a

medical opinion must be predicated on reasonable medical probability. (**McAllister v. Workmen's Comp. Appeals Bd.** (1968) 69 Cal.2d 408, 413, 416-417, 419 [33 Cal.Comp.Cases 660]; **Travelers Ins. Co. v. Industrial Acc. Com. (Odello)** (1949) 33 Cal.2d 685, 687-688 [14 Cal.Comp.Cases 54]; **Rosas v. Workers' Comp. Appeals Bd.** (1993) 16 Cal.App.4th 1692, 1700- 1702, 1705 [58 Cal.Comp.Cases 313].)

Also, a medical opinion is not substantial evidence if it is based on facts no longer germane, on inadequate medical histories or examinations, on incorrect legal theories, or on surmise, speculation, conjecture, or guess. (**Hegglin v. Workmen's Comp. Appeals Bd.** (1971) 4 Cal.3d 162, 169 [36 Cal.Comp.Cases 93]; **Place v. Workmen's Comp. Appeals Bd.** (1970) 3 Cal.3d 372, 378-379 [35 Cal.Comp.Cases 525]; **Zemke v. Workmen's Comp. Appeals Bd.**, supra, 68 Cal.2d at p. 798.)

. Further, a medical report is not substantial evidence unless it sets forth the reasoning behind the physician's opinion, not merely his or her conclusions. (**Granado v. Workers' Comp. Appeals Bd.** (1970) 69 Cal. 2d 399, 407.

.An opinion that fails to disclose its underlying basis and gives a bare legal conclusion does not constitute substantial evidence); see also **People v. Bassett** (1968) 69 Cal.2d 122, 141, 144 (the chief value of an expert's testimony rests upon the material from which his or her opinion is fashioned and the reasoning by which he or she progresses from the material to the conclusion, and it does not lie in the mere expression of the conclusion; thus, the opinion of an expert is no better than the reasons upon which it is based).) .Moreover, in the context of apportionment determinations, the medical opinion must disclose familiarity with the concepts of apportionment, describe in detail the exact nature of the apportionable disability, and set forth the basis for the opinion, so that the Board can determine whether the physician is properly apportioning under correct legal principles. (**Ashley v. Workers' Comp. Appeals Bd.**, supra, 37 Cal.App.4th at pp. 326-327; **King v. Workers' Comp. Appeals Bd.** supra, 231 Cal.App.3d at pp. 1646-1647; **Ditler v. Workers' Comp. Appeals Bd.**, supra, 131 Cal.App.3d at pp. 812-813.) . " Testimony is too speculative and conclusory to constitute substantial evidence that Ditle's present disability is due in part to the normal progress of preexisting disease". See **Duthie v. Workers Comp. Appeals Bd.** (1978) 86 Cal.App.3d 721, 731 [150 Cal.Rptr. 530].) . The physician must disclose adequate familiarity with the preexisting disability. That is, the physician must describe in detail the exact nature of the preexisting disability and the basis for such an opinion in order that the Board be able to determine whether the physician is properly apportioning under correct legal principles. (**Callahan**, supra, 85 Cal.App.3d at p. 630; see also **Gay v. Workers Comp. Appeals Bd.**, supra, 96 Cal.App.3d at p. 562; **Calhoun v. Workers Comp. Appeals Bd.** (1981) 127 Cal.App.3d 1, 10 [179 Cal.Rptr. 198].) . Even though the present disability would not have occurred in absence of the work-related injury, the doctor improperly apportioned it to pathology rather than focusing on the present disability for which compensation was sought. (See **Duthie**, supra, 86 Cal.App.3d at p.; **Dorman**, supra, 78 Cal.App.3d at p. 1018.) As the court stated in **Bstandig v. Workers Comp. Appeals Bd.**, supra, 68 Cal.App.3d .The only caveat is that the WCJ's rating must be based on substantial evidence. (**Blackledge v. Bank of America** (2010) 75 Cal. Comp. Cases 613, 616 (en banc)).

. When examining the substantial medical and vocational evidence with the facts of the case and analyzing the range of evidence from all perspectives, the record supports the Court's finding of total permanent disability. (**Daniels v. Workers' Compensation App. Bd.** (2011) 76 Cal.Comp.Cases 1092) .

.it is well-settled that “the Board may not leave undeveloped matters which its acquired specialized knowledge should identify as requiring further [inquiry or] evidence.” (**Telles Transport, Inc. v. Workers’ Comp. Appeals Bd. (2001) 92 Cal.App.4th 1159, 1164 [66 Cal.Comp.Cases 1290].**) .

In the instant case, I am persuaded that the WCJ’s decision should be rescinded and the matter returned to the WCJ for further proceedings and new decision on the unresolved issues of permanent disability and apportionment. .In **Escobedo v. Marshalls (2005) 70 Cal.Comp.Cases 604 (Appeals Board en banc)**, we explained, ;Even where a medical report the issue of causation of the permanent disability and makes an apportionment determination by finding the approximate relative percentages of industrial and non-industrial causation **under section 4663(a)**, the report may not be relied upon unless it also constitutes substantial evidence.; (**70 Cal.Comp.Cases at p. 607.**) .

Hoffman MD deposition never produced to injured worker and its content still kept hidden from injured workers and injured workers cannot discover any false statement until provided with a copy of deposition.

The Evidence Support Petitioner injury is Compensable, for specific and Cumulative injury :

Under the workers Compensation statute, there are two distinct types of industrial;injuries; A compensable injury can be either;specific or ;cumulative (**§ 3208.1.**) .

.A cumulative injury is one which results from repetitive events, occurring during each days work, which in combination cause any disability or need for medical treatment. (**Fireman’s Fund Indem. Co. v. Ind. Acc. Com. (1952) 39 Cal. 2d 831, 833 [250 P.2d 148].**)

.A worker suffering from a cumulative injury may invoke the rights and benefits provided under California’s workers compensation laws when the cumulative effects of the repetitive events result in a compensable injury, i.e., one resulting in lost wages or the need for medical treatment. (**See Van Voorhis v. Workmens Comp. Appeals Bd. (1974) 37 Cal. App. 3d 81, 86-87 [112 Cal. Rptr. 208]; Hanna v. Workmens Comp. Appeals Bd. (1973) 32 Cal. App. 3d 719, 722 [108 Cal. Rptr. 227].**) .In any given situation, there can be more than one injury, either specific or cumulative or a combination of both, arising from the same event or from separate events. (**Chevron U.S.A., Inc. v. Workers Comp. Appeals Bd. (1990) 219 Cal. App. 3d 1265, 1271 [268 Cal. Rptr. 699]; 36 Document received by the CA Supreme Court. City of Los Angeles v. Workers Comp. Appeals Bd. (1978) 88 Cal. App. 3d 19, 29 [151 Cal. Rptr. 679]; State Comp. Ins. Fund v. Workmens Comp. App. Bd. (1969) 1 Cal. App. 3d 812, 819 [82 Cal. Rptr. 102].**) .The number and nature of the injuries suffered are questions of fact for the WCJ or the WCAB. (**Aetna Cas. & Surety Co. v. Workmen’s Comp. Appeals Bd. (1973) 35 Cal. App. 3d 329, 341 [110 Cal. Rptr. 780]; LeVesque v. Workmen’s Comp. App. Bd. (1970) 1 Cal. 3d 627, 637 [83 Cal. Rptr. 208, 463 P.2d 432].**) . “the Workers; Compensation Appeals Board upheld the judges decision, finding that there was substantial evidence to support the finding of cumulative trauma”.
,Dawson v. County of LA, 2017 Cal. Wrk. Comp. P.D. LEXIS 28 . The Petitioner is

entitled to reimbursement for medical treatment obtained outside of the employers medical provider network (MPN) for past present and future medical visits: . "The WCAB ultimately ruled in favor of Escobedo, stating that an injured worker is entitled to reimbursement for medical treatment obtained outside of the MPN if the employer fails to provide timely and adequate medical treatment within the MPN""The WCAB also clarified that an employer may not deny reimbursement for medical treatment obtained outside of the MPN solely on the basis that the treatment was not authorized in advance. The employer must instead demonstrate that the treatment was unnecessary or unreasonable." **See Escobedo v. Marshalls (2007) 70 Cal. Comp. Cases 604 (Appeals Board en banc).** .

. **Under section 3208.1**, an injury causing a need for medical treatment is compensable even in the absence of disability. Employers maintain liability for disability for pre existing conditions /Apportionment of permanent disability benefits in cases where the injured worker had a pre-existing condition that contributed to the disability.

. **Section 4663** provides that "In case of aggravation of any disease existing prior to a compensable injury, compensation shall be allowed only for the proportion of the disability due to the aggravation of such prior disease which is reasonably attributed to the injury" .

. This section must be read in light of the rule that an employer takes the employee as he finds him at the time of employment and when subsequent injury lightens up or aggravates a previously existing condition rendering it disabling, liability for the full disability without proration is imposed upon the employer." (**Colonial Ins. Co. v. Industrial Acc. Com. (1946) 29 Cal. 2d 79, 83-84 [172 P.2d 884].**) .

. Since the employer must compensate not only for the disability caused solely by the industrial injury, but also for that resulting from an aggravation or ;lighting up of a non disabling disease preexisting the industrial injury, the appeals board may apportion the disability **under section 4663** only in those cases in which part of the disability would have resulted, in the absence of the industrial injury, from the normal progress of the pre-existing disease. (**Reynolds Elec. etc. Co. v. Workmens Comp. App. Bd. (1966) 65 Cal. 2d 438, 443 [55 Cal. Rptr. 254, 421 P.2d 102]**; **Tanenbaum v. Industrial Acc. Com. (1935) 4 Cal. 2d 615, 617-618 [52 P.2d 215]**; **Industrial Indemn. Co. v. Industrial Acc. Com. (1949) 95 Cal. App. 2d 443, 450 [213 P.2d 11]**; **Hanna, California Law of Employee Injuries and Workmens Compensation (2d ed. 1967) § 14.03[3][b]**, at pp. 14-21--14-23.) . "Whether a disability results in whole or in part from ;the normal progress of a preexisting disease (**Industrial Indemn. Co. v. Industrial Acc. Com. [supra]**, 95 Cal. App. 2d 443, 450) or represents a fully compensable lighting up or aggravation of a preexisting condition is a question for the [appeals board] to determine, and its award will not be annulled if there is substantial evidence to support it. [**Citations. [68 Cal. 2d 797 (Argonaut Ins. Co. v. Industrial Acc. Com. (1962) 57 Cal. 2d 589, 593 [21 Cal. Rptr. 545, 371 P.2d 281].**)] .

. For the sake of argument if suppose applicant had as pre-existing condition per Hoffman opinion (which she did not have, as no evidence of such pre-existing life long

condition presented prior to working at FHCN) , apportionment is still improper in the QME report as pre-existing condition was not disabling before the work injury. . "Guzman appealed the decision, arguing that the apportionment was improper as his pre-existing condition was not disabling before the work injury. 38 Document received by the CA Supreme Court. The Workers Compensation Appeals Board (WCAB) agreed with Guzman and overturned the decision, finding that the apportionment was not based on substantial evidence. The California Court of Appeal, affirmed the decision of the WCAB. **"Milpitas Unified School District v. WCAB (Guzman) (2010) 187 Cal. App. 4th 808, 75 Cal. Comp. Cases 837.** "The Court of Appeal held that apportionment must be based on substantial medical evidence, and that the mere existence of a pre-existing condition does not automatically justify apportionment. The court also noted that the school district failed to provide sufficient evidence to support its apportionment argument"**Milpitas Unified School District v. WCAB (Guzman) (2010) 187 Cal. App. 4th 808, 75 Cal. Comp. Cases 837. 277**

. In this case Employer has total liability for a established disability :

It is undisputed fact that no evidence presented that pre existing lifelong chronic conditions or any disability existed before petitioner started working at FHCN, therefore no reasonable probability that permanent disability that was established in June 2020 originated or aggravated from chronic psychiatric illness . . For the sake of argument if suppose there was undetected chronic psychiatric illness before 2019, still there is no evidence it was disabling before 2019. Disability established after claim of injury, which indicates that a (questionable or Pretextual diagnosis) chronic psychiatric illness aggravates or lightens up due to claim injury. Considering 100 percent of disability from non industrial is not proper in this case as there was no evidence of pre-existing condition and Qme report is disputed due to fraud content and has many defects. In addition Hoffman md failed to explain if disability resulted from normal progress of a pre existing condition and why only appeared after the claim of injury . . Therefore, Wcab failed to apply correct legal principle when it failed to establish that Qme report is not adequate for apportionment determination as it failed to apportionment set forth on disability. Qme reports apportionment improperly based(on pathology) 100 percent of psychiatric injury or to chronic illness.

. All facts and evidence indicate series of harassment incidence lead to injury, combined of cumulative and specific injury in 2019 and right after claim of injury disability was established , (see discussion in above paragraphs connected exhibits/ pgs as well as exhibit A pgs 130-263, exhibit B 4-95,100-101,344) .

.Qme Report is based on fraudulent statements and concealment of facts to reach an opinion of chronic life long conditions to potentially prevent liability to FHCN. .

Permanent Disability Benefits :

. A disability, other than one resulting from a progressive occupational disease, is permanent when the employee's condition has reached maximum improvement or the condition has become stationary for a reasonable period of time. (Ibid.) **Chavira v. Workers Comp. Appeals Bd. (1991) 235 Cal. App. 3d 463, 473 [286 Cal. Rptr. 600].** Permanent disability benefits are to compensate both for actual incapacity to work and for the physical impairment suffered. (**Chavira v. Workers Comp. Appeals Bd., supra, 235 Cal.App.3d at p. 473.**) . Whether a disability is permanent or temporary is a question of fact. (**1 Hanna, op. cit. supra, § 7.01[2], pp. 7-5 through 7- 6.**) . A disability cannot be both permanent and temporary at the same time. (**New Amsterdam Cas. Co. v. Ind. Acc. Com. (1951) 108 Cal. App. 2d 502, 507 [238 P.2d 1046].**) . Applicant met burden of proof establishing the percentage of disability causation factor (**4663 (c)**) . Petitioner testified that prior to starting working with FHCN and her injury at work, she had never been diagnosed with chronic psychiatric injury, had no work restriction or permanent disability. (**section 4663(d)**) . Petitioner testified there is no evidence presented or existed that confirms work restriction and permanent disability of the applicant before applicant started working for FHCN(2019).

. Petitioner testified under penalty of perjury that QME Provider confirm with applicant issue of causation of injury (flagging of name as new policy of Donald Trump govt) (**section 4663(a)**) , however concealed it from causation section in a Qme report. . Petitioner's medical record indicates that chief complaint of Petitioner stress was related to harassment at work(FHCN) that led to work injury.

.All medical records of Petitioner and QMe Report confirms Petitioner was not diagnosed with any chronic psychiatric medical diagnosis before starting working at FHCN .

.All medical records of Petitioner and QMe Report confirms Petitioner was not established with any disability before the applicant claimed injury at FHCN.

. 100 percent Chronic Permanent disability is established by the QMe Report and WCAB. . Question has been raised on Qme report new medical condition diagnosis or "Pre-existing chronic medical condition" in a QME report dated June 2020.

. QME report failed to explain why pre-existing chronic conditions had not been diagnosed, caused disability, or existed on any medical record before the worker compensation claim. (Section 4663(b)). . QME report failed to explain how someone with chronic life-long psychotic disorders finished dental school, obtained dental license in California, raised two minor kids, became financially independent, and practiced as a dentist for about 10 years with no diagnosis or indication of chronic psychotic illness. .QME report failed to explain how the QME provider interpreted the series of harassment incidence Petitioner reported at the family health care network in 2019 as an indication of lifelong chronic psychotic disorders, which only appears (after the threat was given for participating in court proceedings and initiating court proceedings in Jan 2019 against federal reserve center) after a claim of injury at Family healthcare network. .There is no substantial medical evidence of a preexisting condition that was, in fact, disabling prior to the occurrence of the industrial injury in question.

. For the sake of argument, if consider applicant's medical condition is pre-existing and chronic, it still did not cause permanent disability before injury at work (Family healthcare network) in 2019 .Permanent Disability was affirmed for the first time in the QME report in June 2020. . Psychiatrist Dr. Sievert restricted the applicant for the first time in her work activities and provided a reasonable accommodation certificate after the claim of the industrial injury at the Family healthcare network . There is an absence of evidence that the appellant actually had been restricted in her work activities prior to the industrial injury at the Family healthcare network. There is an absence of evidence that the worker actually had determined disability by the health care provider prior to the industrial injury.

.Dispute raised on the issue of apportionment and non-industrial causation and validity of report(cannot consider substantial medical evidence) by applicant. WCJ failed to weigh the evidence appropriately and failed to determine these issues based on the most persuasive substantial evidence.

. WSJ failed to note that the defendant failed burden to establish adequately or undisputedly that permanent disability was caused by factors other than industrial injury (**section 4663(c)**).

.Preponderance of evidence establishing industrial injury, and it also corroborates with Hoffman md personal Knowledge and communication regarding the reason for flagging(or retaliation, violence, or harassment) of the applicants name are due to the new policy of the Donald trump government for filing court proceedings.

. Cathy Meadows report confirms the reason for retaliation and harassment was to cause emotional and psychological trauma and distress to the applicant.

. All credible evidence indicates the direct cause of disability is due to industrial injury. . Besides, apportionment of permanent disability shall be based on " causation" (refer as causation of disability), **4663(a)**.

. WCJ failed to apply the provision of labor code section 4663(a) .Pursuant to Section 4663(a), apportionment of permanent disability shall be based on " causation" (refer as causation of disability), not causation of injury.the analysis of the causal factors of permanent for the purpose of apportionment may be different from the causal factor of the injury itself. (**Escobedo vs. Marshal (2005) (appeal board en banc)** . "Issue of the causation of permanent disability, for the purpose of apportionment is distinct from the issue of causation of an injury "(**see reyes v hart plastering (2005)70 Cal.comp.cases 223(significant panel decision)**).

. "In order to apportion under former section 4750, there must have been evidence of a preexisting condition that was in fact labor disabling prior to the occurrence of the industrial injury in question; that is, there must have been disability which would have been ratable had it been industrially caused". (**Ditler v. Workers' Comp. Appeals Bd. (1982) 131 Cal.App.3d 803, 812 [47 Cal.Comp.Cases 492]; Robinson v. Workers' Comp. Appeals Bd., supra, 114 Cal.App.3d at p. 602; Franklin v. Workers' Comp. Appeals Bd., supra, 79 Cal.App.3d at p. 237.**) .Pre Existing disability, however, could not be established by a "retroactive prophylactic work restriction," that is, a medical opinion that retroactively imposed a work limitation upon the injured worker, which

opinion was postulated after the industrial injury and was made in the absence of evidence that the worker actually had been restricted in his or her work activities prior to the industrial injury. (**Ditler v. Workers' Comp. Appeals Bd.**, supra, 131 Cal.App.3d at p. 814; **Robinson v. Workers' Comp. Appeals Bd.**, supra, 114 Cal.App.3d at p. 602; **Franklin v. Workers' Comp. Appeals Bd.**, supra, 79 Cal.App.3d at p. 238.) .

.Under both former sections 4663 and 4750, it was the permanent disability resulting from, not the cause of, a disease or condition which was the proper subject of apportionment; apportionment to "pathology" was not permissible. (**Pullman Kellogg v. Workers' Comp. Appeals Bd. (Normand)**, supra, 26 Cal.3d at pp. 454-455, 456 [at fn. 4]; **Fresno Unified School Dist. v. Workers' Compensation Appeals Bd.(Humphrey)**, supra, 84 Cal.App.4th at p. 1304; **Ashley v. Workers'Comp. Appeals Bd.**, supra, 37 Cal.App.4th at p. 327; **King v. Workers' Comp. Appeals Bd. (1991)** 231 Cal.App.3d 1640, 1647 [56 Cal.Comp.Cases 408]; **Duthie v. Workers' Comp. Appeals Bd.**, supra, 86Cal.App.3d at p. 728; **Franklin v. Workers' Comp. Appeals Bd.**, supra, 79 Cal.App.3d at p. 243.) .The Supreme Court implicitly suggested that, had(**Baker v. Industrial Acc. Com.**, supra, 243 Cal.App.2d at p. 390.) been decided under former 4663 using these principles, apportionment would not have been proper because it is the disability resulting from, rather than a cause of, a disease which is the proper subject of apportionment, and because there was no evidence in Baker that the employee's smoking would have caused any disability had he not been exposed to substances at work. (**Pullman Kellogg v. Workers' Comp. Appeals Bd. (Normand)**, supra,26 Cal.3d at pp. 454-455 & 456 [at fn. 5].) .

Due process: .All parties in workers' compensation proceedings retain their fundamental right to due process and a fair hearing under both the California and United States Constitutions. (**Rucker v. Workers; Comp. Appeals Bd. (2000)** 82 Cal.App.4th 151, 157-158 [65 Cal.Comp.Cases 805] (**Rucker**).) .A fair hearing includes but is not limited to, the opportunity to call and cross-examine witnesses, introduce and inspect exhibits, and offer evidence in rebuttal. (**Gangwish v. Workers' Comp. Appeals Bd. (2001)** 89 Cal.App.4th 1284, 1295 [66 Cal.Comp.Cases 584] .Petitioner was not introduced to inspect deposition and was not aware of the content of deposition of Hoffman md, and it was kept concealed from Applicant despite the request to provide copy, therefore taking away a fair chance of rebuttal. The petitioner was not provided a fair chance to cross-question the witness Hoffman md on disputed issues.

. Pursuant to Labor Code section 5311, WCAB Rule 10452, and CCP sections 170.1(a) and 641, judicial disqualification is the appropriate remedy where there is actual bias or an appearance of bias against either a party or a lawyer in the proceeding. .Due process is violated when there is even an appearance of bias or unfairness in administrative hearing .**yaqub v Salinas valley memorial healthcare system (2004)** 122 Cal app 4th 474, 483-486. (**haas v County of San bernardino (2002)** 27 Cal. 4th 1017,1024-1027.

.Additionally, there must be a complete record for our review of the case. "[A] proper record enables any reviewing tribunal, be it the Board on reconsideration or a court on further 332. appeal, to understand the basis for the decision." (**Hamilton v. Lockheed Corporation (2001)** 66 Cal.Comp.Cases 473, 475 [2001 Cal. Wrk. Comp. LEXIS 4947] (**Appeals Bd. en banc**).) .

We have heretofore reminded the W.C.A.B. of the Legislatures command that workmen's compensation laws be liberally construed ;with the purpose of extending their benefits for the protection of persons injured in the course of their employment; (**Lab. Code, § 3202; Reynolds Elec. etc. Co. v. Workmens Comp. Appeals Board (1966)** 65 Cal. 2d 429, 433 [55 Cal. Rptr.

248, 421 P.2d 96].).

We have also said that the W.C.A.B. is not entitled to rely on medical reports which it knows to be erroneous. (**McCoy v. Industrial Acc. Com. (1966) 64 Cal. 2d 82, 92 [48 Cal. Rptr. 858, 410 P.2d 362]**) 336.

The legislature intended that **Section 4600** shall be liberally interpreted in favor of the employees right to obtain reimbursement, and it has been held that the employer should not, without good cause, be relieved of the duty to furnish medical care. (**California Union Ins. Co. v. Industrial Acc. Com. (1960) supra, 183 Cal.App.2d 644, 648; Simien v. Industrial Acc. Com. (1956) 138 Cal.App.2d 397, 400 [291 P.2d 951].**).

There is substantial evidence on the issue of the approximate percentages of permanent disability due to the direct results of injury at work. There is no reasonable medical probability that demonstrates permanent disability is due to a newly diagnosed (note: diagnosed after work injury reported based on fraudulent, fabricated statement) chronic life long psychotic condition.

.In this case, a qualified medical opinion is not framed in terms of reasonable medical probability, speculative, based on fabricated facts, concealment of facts, and on a disputed examination and history. The report failed to set forth reasoning in support of the opinion and its conclusions. For example, the Qme provider failed to set under reasonable medical probability how and why the disability is not related to the industrial injury. Qme provider failed to set under reasonable medical probability how and why the chronic life-long psychotic injury is responsible for the disability that occurred in 2019 after injury at work.

. "The Appeals Board held that when an insurance company denies benefits, the decision must be supported by substantial medical evidence and that the judge must consider all relevant medical evidence before making a decision. The Dubon decision also established a procedure for injured workers to challenge insurance company decisions and seek a new medical evaluation if necessary." **In its en banc decision in Dubon v. World Restoration, Inc., State Compensation Insurance Fund (79 Cal. Comp. Cases 1298)**, .However, orders mentioned WCJ's reliance on the Qme provider of Hoffman md failure to inform the appellant about undetected or hidden deposition from the appellant must be considered prejudicial.

.Applicant pointed out on Petition for Reconsideration there were numerous inconsistencies in the reporting for Hoffman md report, which entitled the appellant to cross-examination. ",that suggest cross-examination was a necessary entitlement for Petitioner". As the Court in Ogden, cited supra, opinioned. ". The appeals board exceeded its powers when it adopted a decision as its own that was flawed by a denial of due process. Because the appeals board exceeded its powers, its decision must be set aside. (**Lab. Code, § 5952, subd. (a).**)"**Ogden Entertainment Services v W.C.A.B., 80 Cal. Comp. Cases at 2, 3 .**

VERIFICATION:

I am Petitioner Samreen Riaz in this case. I have read the above declaration filed with the opening Petition for writ and know its contents. The facts alleged in the Declaration are within my own knowledge, and I know these facts to be true.

I declare under penalty of perjury, under the laws of the State of California, that the information entered on this form is true and correct as best of my knowledge and that this verification was executed on this 25 day of March 2024 in Visalia, California.

Filed by
Plaintiff Samreen Riaz

A handwritten signature in cursive script that reads "Samreen".

Conclusion:

Petitioner filed petition for review and EXHIBIT A-D in the Supreme court of california in the case Riaz vs WCAB, Midwest ins.et al within time allowed by the Supreme Court of California(See correspondence with Supreme Court of ca in Exhibit A of petition certiorari). And initially temp case number issued **TEMP-4MOGY4R5 Samreen Farid Riaz Vs WCAB nov 23 23. After letter received on nov 27 23 from George navarrete plaintiff filed on 27 23 in the temp case TEMP-KE0584X1 1-APPLICATION FOR PERMISSION TO FILE Over-Length Petition for Review With Exhibits in Excess Of 10 Pages 2-Application for Relief from Default.** Supreme court of california denied petition on Jan 10 24.Petition for review Samreen Farid Riaz Vs WCAB was filed in the 5th district court(F086457) on june 27 23 and denied on 10/26/23. Based on the Petitioner challenges, Petitioner requested Supreme Court of USA to compel Supreme Court of California, 5th District Appeal Court,WCJ and WCAB reverse all above case rulings in this case, Remand case back to WCAB/WCJ, remedy constitutional violation(1,14th and 7th) of plaintiff and award WCAB benefit, allow EDD recovery of lien of public disability system for injury resulting from unlawful activities of the private sector FHCN, nullified fraudulent medical legal report prepared by Hoffman MD, Compel proper fact finding, investigation of Hoffman MD by the medical unit of QME .Injured worker suffered great economical harm and property loss in the form of dental license 62312 revoked in 2023 after dental board raised issue related to mental competency of injured worker in 2022 .Injured worker dental license was in good standing with no restriction before injury reported to FHCN in 2019 due to whistleblower retaliation.(See writ certiorari Exhibit F) .Permanent disability benefits are to compensate both for actual incapacity to work and for the physical impairment suffered. (**Chavira v. Workers' Comp. Appeals Bd., supra, 235 Cal.App.3d at p. 473.**

Respectfully Samreen Riaz

March 25 24

