

STATE OF CALIFORNIA
WORKERS' COMPENSATION APPEAL BOARD

Case No. VEN 080189

LILLIAN CAMARA,

Applicant,

vs.

LOS ANGELES UNIFIED SCHOOL
DISTRICT; Permissibly Self-Insured,

Defendants.

**FINDINGS, AWARD
AND ORDERS**

Wax and Wax
By Harold W. Wax
Attorneys for Applicant.

Kegel, Tobin and Truce
By E. Charles Maki
Attorneys for Defendants.

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The above-entitled matter having been heard and regularly submitted, the Honorable JOHN K. C. MAH, Workers' Compensation Judge, now makes his decision as follows:

FINDING OF FACT

1. Lillian Camara, born April 7, 1928, while employed as a teacher's aide at Canoga Park, California during the period of Fall, 1987 through October 1, 1990 by the Los Angeles Unified School District, then permissibly self-insured as to workers' compensation liability, did not sustain injury arising out of and occurring in the course of her employment to her psyche and causing headaches.

2. Defendant has no liability for temporary disability indemnity.

3. Defendant has no liability for self-procured medical treatment costs incurred by applicant.

4. Applicant is entitled to payment of reasonable medical-legal costs which may consist of the medical-legal portions of the lien of Crestview Medical Group in the amount of \$2,489.50 and Northridge Diagnostic Center in the amount of \$1,365.00, which defendant is to pay or adjust.

5. All other issues have been rendered moot.

AWARD

AWARD IS MADE in favor of Lillian Camara against Los Angeles Unified School District of medical-legal costs as stated above in Finding of Fact no. 4, with jurisdiction reserved in the event the parties are unable to resolve the liens.

ORDERS

IT IS ORDERED that applicant take nothing by reason of his application.

IT IS FURTHER ORDERED that the lien of the Employment Development Department in the amount of \$3,159.13 and the self-procured treatment portions of the lien of Crestview Medical Group in the amount of \$2,489.50 are disallowed.



JOHN K. C. MAH
Workers' Compensation Judge

Filed and Served by mail on: 10-21-93
On all parties on the Official
Address Record.
By: Margie Lujano

*A Petition for Reconsideration from this decision shall be filed only at the Van Nuys District Office of the Workers' Compensation Appeals Board.

CASE NUMBER: VEN 080189

LILLIAN CAMARA

-vs-

LOS ANGELES UNIFIED SCHOOL
DISTRICT; Permissibly Self-Insured

DATE: October 21, 1993

JUDGE: JOHN K. C. MAH

OPINION ON DECISION

Following a complete review of the record, the issues in this matter are decided as follows:

I. INJURY

It is found that applicant did not sustain an injury to her psyche and causing headaches which arose out of and occurred in the course of her employment with the Los Angeles Unified School District during the period of Fall of 1987 to October 1, 1990.

This trier of fact did not find an industrial injury because he could not conclude from a review of the record that applicant's employment with defendant caused or affected her psychiatric condition and headaches. Applicant was not found to be a credible witness on her behalf. She testified at trial about her problems with a teacher, Eleanor Perrault; in particular an incident involving a child Yvonne in which Mrs. Perrault purportedly held the applicant, pointed her finger at the applicant, and argued with the applicant. Applicant also testified that she was "confused" because lesson plans were not followed by Mrs. Perrault, and that Mrs. Perrault would frequently disappear from the classroom.

Mrs. Perrault was a credible witness at trial and rebutted applicant's allegations. Mrs. Perrault testified convincingly that in the incident involving Yvonne, she spoke to the applicant in a "calm

and compassionate manner," and that she was not frequently missing from her classroom.

The testimony given at trial by applicant's witnesses, Don Lewis and Debra Berwick, did not support the facts as portrayed by applicant. Mr. Lewis was not present during the incident involving Yvonne, and gave testimony based upon what applicant told him. Ms. Berwick was hardly an unbiased witness. She had a substantial disagreement with Mrs. Perrault on educational philosophy. The two of them did not get along and it appears they had a personality conflict. In fact, according to Ms. Berwick, they had several confrontations.

In addition, this trier of fact found the opinions of defendant's medical experts to be more persuasive than those of applicant's doctors. Dr. Martin Levine, a psychiatrist and neurologist, concluded in his report of January 22, 1992 (Defendant's Exhibit A):

"In terms of any residual neurological disability, she has none.

"She has no work related injury or illness which would reasonably be expected to have exacerbated or cause her to become disabled."

In his January 21, 1992 report, Dr. Levine noted:

"At this point in time the patient is asymptomatic and experiencing no neurological disability related to the current event. In fact I can find no cause and effect relationship between the production of the headache and any work situation whatsoever. The patient already had a 30 year history of muscle contraction-tension headache which is seen in Dr. Buerger's records and detailed by the patient herself during this consultation."

It was the opinion of the defense psychiatrist, Dr. Lawrence Warick, that applicant's psychiatric condition was not affected by her employment with defendant. In his report of July 24, 1991, Dr. Warick wrote:

"It is my impression that the applicant has a non-industrial medical condition which was not aggravated by the work milieu. . . . In my opinion, the applicant's non-industrial manic-depressive condition

and hypomanic episode triggered her problematical interactions with Mrs. Perault and the circle of events which eventually led to her hospitalization.

This matter is within the ambit of the holding in 20th Century Fox Film Corp. v. WCAB (Conway) (1983) 141 Cal App. 3d 778, 48 Cal. Comp. Cases 275, wherein the Second District Court of Appeal stated, "To be a 'contributing cause' of the injury, the employment itself must be a 'positive factor influencing the course of disease'. . . or must play an 'active role' in the development of the condition." It is evident in the case at bench that applicant's employment with defendant provided a stage for applicant's non-industrial bipolar condition to present itself.

II. CLAIM FOR TEMPORARY DISABILITY AND EDD LIEN

With the finding of no industrial injury, defendant has no liability for temporary disability indemnity. Accordingly, the lien of the Employment Development Department in the amount of \$3,159.13 for unemployment compensation disability benefits it provided from October 10, 1990 through February 18, 1991 at the rate of \$203.00 per week is ordered disallowed.

III. SELF-PROCURED MEDICAL TREATMENT

Due to the finding of no industrial injury, defendant is not responsible for the costs incurred by applicant for self-procured medical treatment. Accordingly, it is ordered that the self-procured medical treatment portions of the lien of Crestview Medical Group in the amount of \$2,489.50 are disallowed.

IV. MEDICAL-LEGAL COSTS AND LIENS

Applicant is entitled to the payment of reasonable medical-legal costs incurred in the prosecution of this matter. Defendant is to pay or adjust the medical-legal portions of the lien of Crestview Medical Group in the amount of \$2,489.50 and Northridge Diagnostic

Center in the amount of \$1,365.00. Jurisdiction is reserved over these liens in the event the parties are unable to resolve them.

V. REMAINING ISSUES

All remaining issues are moot.

Dated: OCT 21 1993
Served by mail on parties as shown
on the Official Address Record.
By: M. Lujano
Margie Lujano



JOHN K. C. MAH
WORKERS' COMPENSATION JUDGE