

DET

WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

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Case No. LAO 727508

SANDRA J. REILLY,

Applicant,

vs.

PRESBYTERIAN INTERCOMMUNITY
HOSPITAL, Permissibly Self-Insured,

Defendants.

OPINION AND ORDER
DENYING PETITION
FOR RECONSIDERATION

Applicant, Sandra J. Reilly, seeks reconsideration from the Opinion and Decision After Reconsideration, issued June 22, 1998, in which the Appeals Board reversed a workers' compensation referee's finding of industrial injury.

Applicant contends that the evidence the Appeals Board relied upon to find she did not sustain an injury arising out of and occurring in the course of her employment is not substantial evidence, and that the Board failed to consider the discussion in the WCR's Report and Recommendation on Petition for Reconsideration. Applicant further argues that she was denied due process of law because the Appeals Board did not review a transcript of proceedings but relied instead upon the summary of evidence prepared by the WCR.

Having considered applicant's contentions, and the defendant's Answer, we shall reaffirm our prior determination for the reasons set forth in our Opinion and Decision After Reconsideration, issued June 22, 1998.

While applicant contends that the opinion of Dr. Brautbar is more persuasive than that of Dr. Aurora, the Appeals Board appropriately exercised our authority to determine which evidence is most convincing. (*Lamb v. Workers' Comp. Appeals Board* (1974) 11 Cal.3d 274 [39 Cal.Comp.Cases 310].) We

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1 find nothing in applicant's petition which would persuade us to alter our
2 conclusion as set forth in our Decision After Reconsideration.

3 With regard to the applicant's contention that due process of law mandates
4 that the Appeals Board obtain and review a transcript of proceedings in order to
5 reweigh the evidence and reach our own determination thereon, we note that
6 applicant has cited no authority mandating such a review. Generally, a review of
7 a transcript is not required absent a showing that there is a material defect in the
8 WCR's summary of evidence. (*Allied Compensation Insurance Company v.*
9 *I.A.C. (Lintz)* (1961) 57 Cal.2d 115 [26 Cal.Comp.Cases 241].) Applicant has not
10 suggested that any such defect exists. Applicant's right to due process of law is
11 not violated by our reliance upon the summary of evidence to make an
12 independent review of the entire record.

13 Accordingly, we shall deny applicant's Petition for Reconsideration.

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For the foregoing reasons,

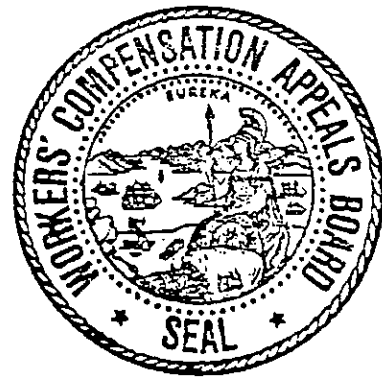
IT IS ORDERED that the Petition for Reconsideration, filed July 17, 1998, is **DENIED.**

WORKERS' COMPENSATION APPEALS BOARD

Arlene N. Heath

I CONCUR,

J. W. [unclear]
Angela M. [unclear]



DATED AND FILED IN SAN FRANCISCO, CALIFORNIA

SEP 10 1998

SERVICE BY MAIL ON SAID DATE TO ALL PARTIES LISTED ON THE OFFICIAL ADDRESS RECORD, EXCEPT LIEN CLAIMANTS.

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D. [unclear]

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WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

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Case No. LAO 727508

SANDRA J. REILLY,

Applicant,

vs.

PRESBYTERIAN INTERCOMMUNITY
HOSPITAL, Permissibly Self-Insured,

Defendants.

OPINION AND DECISION
AFTER RECONSIDERATION

On April 6, 1998, we granted reconsideration in this matter to provide an opportunity to further study the legal and factual issues raised by the petition for reconsideration. Having completed our review, we now issue our Decision After Reconsideration.

Defendant, Presbyterian Intercommunity Hospital, permissibly self-insured, petitioned for reconsideration from the Findings and Award and Order, issued January 21, 1998, in which a workers' compensation referee (WCR) found applicant, Sandra J. Reilly, sustained a cumulative industrial injury to her psyche and internal system over the period of January 7, 1995 through March 13, 1996, while employed as a medical education coordinator. The WCR found the injury resulted in temporary disability from September 28, 1995 through November 5, 1995, and 60% permanent disability, without apportionment.

Defendant makes the following contentions in support of its petition. First, that there is no substantial evidence to support the decision, as applicant's testimony was so materially false that she lacked credibility. Second, that the WCR misapplied Labor Code section 3208.3 by finding that applicant sustained an industrial injury to her psyche based upon the fact that her job is stressful, and by

1 failing to apply the preponderance of the evidence standard. Third, defendant
2 asserts that the WCR erred in finding that her injury to her internal system, i.e.
3 her heart disease, arose out of and occurred in the course of her employment, as
4 she suffered a myocardial infarction at home while on vacation. Fourth,
5 defendant asserts that if a continuous trauma injury is found, the WCR erred in
6 finding the date of injury to be through March 13, 1996, as applicant's myocardial
7 infarction occurred on September 25, 1995 and was off of work until November 5,
8 1995. Fifth, defendant asserts that the injury to the psyche should be apportioned
9 to applicant's prior 1986 injury, as found by applicant's QME, Dr. Nathan.
10 Finally, defendant argues that as all of applicant's disability stems from her 1986
11 injury, her claim is barred by the statute of limitations.

12 Following our review of the record, and for the reasons set forth below, we
13 shall, as our Decision After Reconsideration, reverse the finding that applicant
14 sustained a cumulative industrial injury.

15 Applicant alleged that she sustained a cumulative industrial injury over
16 the period of February 19, 1995 through September 21, 1995, to her internal system
17 and psyche.

18 At trial on September 9, 1997, applicant's supervisor, Gary Morris, testified
19 that at the time of her heart attack, applicant worked in a stressful job. He
20 detailed her job responsibilities as the medical education coordinator and
21 secretary to the administrative director. After applicant's heart attack in
22 September of 1995, she was off work until the following November, and then
23 returned to work, with a substantial amount of unresolved work. When she
24 returned to work, some of her responsibilities were taken away. Despite the job
25 modification, he testified that her job remains stressful.

26 Applicant testified on October 2, 1997, that she has worked for defendant for
27 12 years, and was in charge of the residency program consisting of 20 to 30

1 doctors. Three years ago, her job duties were expanded to include the scheduling
2 of the residents' rotations, clinics and vacations.

3 She testified that at the time she suffered her heart attack, her job was
4 stressful, as she was missing clerical staff and had an increased number of
5 residents and faculty doctors. She complained to her supervisor of the work flow
6 problems, but no remedy was provided. After her heart attack, the duty of
7 scheduling the residents and faculty was taken away. She testified that she still
8 considers her job to be stressful.

9 She further testified that prior to having sustained her heart attack, she
10 had no outside stressors and that her heart attack was due mostly to on going
11 stress on the job.

12 She testified that her son, when he was 12 years old, had surgery for
13 obstruction of the bowel, and is now doing fine. She testified that she has no
14 problems living with her son, and that he is well adjusted and leads a stable life.
15 On cross-examination, she testified that she had no adjustment problems when
16 her son returned to live with her in June of 1995. He had been sent to an out-of-
17 state school due to behavioral problems at school and his refusal to take his
18 medication, when he was 13 years old. Her son had been in therapy prior to being
19 sent to the out-of-state school, but has had no therapy since.

20 She admitted to being concerned at one time when her son had absenteeism
21 problems at school. She also denied having any problems with her mother.

22 Applicant testified that she went on vacation to the East Coast to visit a
23 friend with whom she was romantically involved. She visited him with the intent
24 to have a romantic relationship, and testified that her friend did not reject her
25 overtures. Applicant testified that he wanted to maintain the relationship, as she
26 did. She specifically denied that she was upset with respect to this relationship
27 when she returned from her vacation, and stated that she had no stress as a

1 result of meeting with him.

2 On cross-examination, she was referred to an exhibit in which applicant is
3 recorded as saying that her trip was frustrating because her boyfriend did not
4 want to pursue the relationship. She denied telling this to the doctor, and
5 suggesting that she may have stated that she was frustrated by the great distance.

6 She further testified that she had previously been a battered wife, but
7 divorced her husband in 1980, after two years of marriage. She continued to raise
8 her son, while her ex-husband exercised his visitation rights for one year. He
9 then dropped out of sight and died six years ago. She testified that she was
10 relieved at his passing.

11 Applicant testified that when she applied for state disability, she denied in
12 her application that her condition was industrially related. She testified that she
13 later came to the realization that her heart attack was the result of her job stress.

14 She further testified that after her initial five months on the job, she sought
15 medical treatment for severe depression because of her job. She determined that
16 her work was ruining her life.

17 Applicant testified that she currently enjoys her work, but that on one day,
18 in January of 1996, after her return to work, she was suicidal and received
19 psychiatric treatment.

20 Finally, applicant testified that she began smoking cigarettes at age 25. She
21 quit for 7 years, and has smoked since her heart attack.

22 Defendant points to evidence in the medical record which contradicts
23 material aspects of applicant's testimony, and argues that the WCR erred in
24 finding her to be a credible witness.

25 For example, in the admission summary after her heart attack, prepared
26 by Dr. Nancy Smith on September 21, 1995, applicant is recorded as giving a
27 history that she had "returned from a trip out East to see boyfriend. Trip was

1 frustrating because boyfriend did not seem to want to pursue long term
2 relationship. Sandi came home and sat down to have a beer and a cigarette. She
3 suddenly got a crushing C.P. across her chest that literally brought her to her
4 knees." (Def. Exh. F.) Defendant asserts that this admission concerning her trip
5 to visit her boyfriend is at odds with her denial that she was upset about her
6 relationship with her boyfriend. Defendant further points to therapy records by
7 Dr. Lynn Sterba in which there is a handwritten notation from October of 1995,
8 referring to "recent losses (boyfriend)." (Def. Exh. I.)

9 These therapy records, made over the course of many years, some of which
10 are contemporaneous with the period of alleged work stress, are replete with
11 references to sources of stress in applicant's private life. For example, in
12 January of 1996, applicant is noted to complain that she was depressed over her
13 relationship with her parents, primarily her mother, the lack of acknowledgment
14 at work and her unrealistic expectations of her relationship with her son. Coping
15 with her stress, family issues and dealing with her self-esteem and depression
16 are major concerns repeated throughout these therapy notes.

17 Defendant further cites the history given by applicant, contained in the
18 medical records of Dr. Sharon Goldstein, which contradicts applicant's testimony
19 that she has not had any problems adjusting to her son's return to live with her in
20 June of 1995. Dr. Goldstein's report states that applicant revealed that when her
21 son returned home, she "had some difficulty adjusting to him being home due to
22 the fact that he is a challenge. . . . She has been attempting to distance herself
23 from his problems, as it is up to him now." Dr. Goldstein further noted that
24 applicant's son, who was diagnosed with Crohn's Disease in 1991, and had
25 surgery to remove part of his bowel, has had three flare-ups, which have caused
26 applicant concern. (Def. Exh. E, 4/10/96 Report.) Applicant also revealed that in
27 1991, her best friend died of lung cancer, after being ill for 18 months. Applicant

1 still grieves for the loss of her friend.

2 Dr. Goldstein also reveals that applicant had her gall bladder removed in
3 July of 1995, two months prior to her heart attack, after suffering from gastritis
4 for five months and experiencing "extreme pain."

5 Dr. Goldstein's report is also relevant to the issue of whether applicant
6 sustained a cumulative industrial injury to her psyche. Dr. Goldstein concluded
7 that applicant suffers from a dependent personality disorder, and has a recurrent
8 depressive disorder, which she found to be pre-existing and not related to her
9 employment.

10 Dr. Goldstein found applicant suffered no temporary psychological
11 disability, noting that during the time she was off of work due to her heart attack,
12 "she continued to engage in her usual free time activities and travel to Arizona,
13 which she thoroughly enjoyed." On the issue of causation, Dr. Goldstein states:

14 "Ms. Reilly has not suffered any psychological injury or period of temporary
15 disability as a result of her employment with the Presbyterian Intercommunity
16 Hospital. Rather, she suffers from a pre-existing recurrent Depressive Disorder
17 Not Otherwise Specified and Dependent Personality Disorder.

18 "Ms. Reilly is alleging that she has been overworked in her job position
19 since the beginning of her employment, which she contends resulted in emotional
20 and physical stress and ultimately in her suffering a heart attack and becoming
21 depressed. Ultimately, I must defer to the appropriate medical specialists to
22 determine whether the etiology of Ms. Reilly's myocardial infarction is work
23 related. Regardless, the predominant cause of the current depressive episode is
24 not work related."

25 Dr. Goldstein described the non-industrial factors, which are "the
26 predominant cause (more than 51 percent) of the patient's current psychological
27 condition."

1 “The patient has a long history of depression for which she has
2 been presented antidepressant medication since 1985 and has been in
3 psychotherapy intermittently since that time as well.

4 “Concerning her Dependent Personality Disorder, she view
5 herself as a ‘victim,’ and her self-deprecatory nature and inability to
6 stand up for herself has made dealing with her ‘strong willed’ son
7 very difficult. He has been chronically truant from school, been
8 suspended from school, been expelled from school, is not attending a
9 continuation school, and went away to a residential school from 1993
10 to 1995. He was diagnosed with Crohn’s Disease in 1991, and has
11 suffered three flare-ups of that condition, the most recent flare-up
12 occurring three months ago (approximate date of Ms. Reilly’s
13 increased depressive symptoms).

14 “Ms. Reilly’s mother was recently diagnosed with atrial
15 fibrillation, and her father was diagnosed with Alzheimer’s disease
16 one year ago. Although she claims that she is not close to her
17 parents, she has an ‘enmeshed’ relationship with her mother, as
18 well as her son. Finally, the patient is \$20,000 in debt and is
19 participating in Debtors Anonymous.”

20 Defendant had applicant evaluated by Dr. Ajit Arora on April 3, 1996, with
21 regard to her claim of internal industrial injury. [Def. Exh. D.]

22 In the history given to Dr. Arora, applicant stated that she declined to seek
23 job-related disability from the Employment Development Department (EDD)
24 because she did not want to jeopardize her job. We note that this contradicts her
25 testimony that she did not realize the relationship between her job and her heart
26 attack when she applied for state disability benefits, and only came to understand
27 the relationship at a later date.

 Dr. Arora asked applicant about the stress she encountered on her job. She
told him that the cause of her stress was overwork, which she had been dealing
with since 1990. Her stress came from “trying to get all the work done.”

 He then reviewed applicant’s risk factors for coronary artery disease. She
had been diagnosed with hypertension five years previously, and was placed on
medication. She stated that she had since lost 40 pounds from her weight of 240
when her hypertension was diagnosed. Her blood pressure normalized and
stopped taking medication about one year prior to her heart attack. She also

1 admitted to a pack of cigarette per day habit for 15 years, ending after her heart
2 attack. She did not have an exercise regimen prior to her heart attack. By
3 January of 1996, she reached menopause, with changes starting about five
4 months prior to her heart attack. She has been on hormonal supplements. She
5 related that her mother, at age 83 suffers from atrial fibrillation, and that her
6 father, at age 79, is healthy. She did not disclose the fact that her father had been
7 diagnosed with Alzheimer's disease, though it is reported subsequently by Dr.
8 Arora. He further noted that applicant's cholesterol level was elevated, at 279.

9 Dr. Arora reviewed the medical evaluation and report of Dr. Brautbar, who
10 concluded that applicant's heart condition was work related, finding that the
11 severe industrial stressors caused her hypertension and her myocardial
12 infarction.

13 Dr. Arora concluded otherwise. He noted that applicant denied suffering
14 any severe emotional stressors at work, but that the stress she suffered was based
15 upon the excessive workload. He explained further that there are two distinct
16 issues when addressing the occupational implications of a myocardial infarction
17 in the setting of coronary artery atherosclerosis. The first being the coronary
18 artery atherosclerosis, which is the narrowing of the artery by the formation of
19 plaque from cholesterol deposits. This he notes is a slowly progressive
20 phenomenon, occurring over a lifetime. The second issue is the myocardial
21 infarction, which is a triggered event that results in actual damage to the heart
22 muscle.

23 He then reviewed the medical literature which detailed the risk factors for
24 coronary artery atherosclerosis. A history of smoking, high cholesterol, obesity, a
25 sedentary lifestyle, and hypertension, are the factors present in applicant. He
26 noted the absence of longitudinal studies which establish that, when controlling
27 for all other risk factors, mental stress in itself is a significant risk factor. He

1 further referenced the studies which refuted the concept that a Type A personality
2 is a risk factor. Summarizing the literature, he stated:

3 " . . . [I]t could be stated that mental stress at the present time cannot be
4 defined as a risk factor for coronary atherosclerosis based on reasonable medical
5 probability because acceptable scientific evidence is lacking."

6 He next discussed the issue of what triggers a myocardial infarction. He
7 noted that the majority, 90%, of such events are not triggered by any identifiable
8 sources, but are related to the body's natural rhythms, occurring during rest,
9 sleep or ordinary activities. Only 10% of myocardial infarctions are triggered by
10 external events such as acute stress or heavy physician exertion. In discussing
11 the issue of the causation of applicant's heart condition, Dr. Arora set forth his
12 conclusions as follows:

13 "Based on the research published in the last 20 years,
14 specifically the most recent study from the Stanford Medical School
15 (exhibit #12), it is highly improbable that job stress played a clinically
16 significant role in the genesis of coronary atherosclerosis in Ms.
17 Reilly. Since the chest pain occurred at home after returning from
18 vacation, it is medically unreasonable to implicate an occupational
19 factor responsible for the onset of angina. . . .

20 "Of particular interest in Ms. Reilly is the fact that she began
21 to have irregular menses about five months before she had her chest
22 pain, and three months after the onset of chest pains she became
23 menopausal. This establishes that she had become estrogen
24 deficient about five months prior to her chest pain episode.

25 "During the last 10 years, multiple studies have shown that
26 estrogen deficiency not only promotes atherosclerosis of the coronary
27 arteries, but also has a direct influence on the vascular endothelium
promoting vasospasm and angina. . . .

28 "As far as hypertension is concerned, Ms. Reilly's history
29 establishes beyond a reasonable doubt that her hypertension is a
30 weight sensitive problem. Obesity is a well known factor in
31 hypertension, and in some individuals it could be the only factor. This
32 claimant's history establishes that once she lost 40 pounds of weight
33 during the 1993-94 time period, her blood pressure normalized and
34 she was taken off medications. Then she was fine until after she quit
35 smoking in late 1995. **Clearly, the occupational stress was not**

1 affecting her blood pressure significantly. After she quit smoking in
2 late 1995 she began to gain weight, a well known consequence of
3 smoking cessation. She told me that about a week prior to my
4 evaluation she again had high blood pressure readings and the
5 doctors elected to put her back on antihypertensive medication,
6 Cardizem. Therefore, we have no reasonable medical basis to
7 attribute the claimant's hypertension to alleged occupational stress."

8 In response to the report of Dr. Brautbar, of July 24, 1997, Dr. Arora
9 reiterated his view that the applicant's myocardial infarction was not triggered by
10 any occupational factors, as she was away from work on vacation for a week prior
11 to the event. Thus, her situation fell within the 90% of cases in which no specific
12 event triggered the myocardial infarction. He then noted that the "pertinent
13 question is if her coronary artery atherosclerosis was an occupationally related
14 condition." Dr. Arora stated that "[n]one of the literature quoted by Dr. Brautbar
15 even remotely indicates that emotional stress can contribute to the progression of
16 coronary artery atherosclerosis, the basis underlying condition in most
17 myocardial infarctions."

18 In contrast to the defendant's medical evidence, applicant submitted the
19 opinions of Dr. Nachman Brautbar, referred to above, and Dr. Myron Nathan, to
20 establish that she sustained a cumulative industrial injury to her internal system
21 and psyche.

22 Dr. Nathan, in his 4/8/97 psychiatric report, concluded that applicant
23 suffered from a Major Depressive Disorder, recurrent and in partial remission,
24 and also from a Stress-related Physiological Response Affecting Coronary Artery
25 Disease. He found no relevant personality traits. The cause of this condition, he
26 concluded, was her excessive workload.

27 He concluded that she sustained a psychiatric injury as a result of her
employment by defendant, and that "it is medically reasonable [sic] probable that
the predominant cause of all other causes of her Major Depressive Disorder was
her perception of stress at the workplace due to the overwhelming and

1 unreasonable demands placed upon her when she was first hired . . .”

2 He also noted that applicant had a Major Depressive Episode in 1986, which
3 resulted in a permanent psychiatric disability, with a preclusion from undue
4 emotional stress. However he also concluded that there was no evidence of a pre-
5 existing Major Depressive Disorder, or that there was the natural progression of
6 a pre-existing psychiatric condition. Finally, he concluded that despite the
7 presence of non-industrial stressors, which prompted applicant to seek treatment
8 from 1992 until she sustained her cumulative industrial injury in 1996, this
9 treatment was not indicated on an industrial basis. He stated, at page 44 of his
10 April 8, 1997 report:

11 “While the applicant had a number of non-industrial
12 stressors, there is no evidence to suggest that these non-industrial
13 stressors have significantly influenced or altered the course of her
14 Major Depressive Disorder. There is no basis for apportionment of
15 her current psychiatric disorder. These non-industrial stressors did
16 not lead to any increased psychiatric disability. Absent her
17 employment with Presbyterian Intercommunity Hospital, it is
18 medically and reasonably probable that the applicant would have no
19 psychiatric disability whatsoever.” (Emphasis in original.)

20 Applicant selected Dr. Nachman Brautbar to be her treating physician in
21 internal medicine, and he issued his permanent and stationary report on
22 December 4, 1996. The history taken is similar to that taken by Dr. Arora, though
23 his conclusions are quite dissimilar. Dr. Brautbar concludes that there is a
24 “clear correlation” between applicant’s severe emotional stress over the course of
25 her employment by defendant and “the development of hypertension and later on
26 myocardial infarction.” He concludes that her hypertension and heart attack
27 were a direct result of the emotional impact of her job stress. He placed a work
restriction of no exposure to emotional stress and no heavy work. He further
states:

“While Dr. Aurora [sic], the defense physician, who is one of
the only two physicians in Southern California who will try to

1 convince the reader 'that stress does not cause hypertension' and
2 'that stress does not cause myocardial infarction,' his personal belief
3 is not supported by scientific evidence as quoted above, and as
4 attached here. Dr. Aurora's report lacks probative value since it is
5 not based on scientific evidence; it is not based on the current
6 accepted methodology and the accepted clinical scientific evidence."
7 [App. Exh. 1, 12/4/96 p. 41. Emphasis in original.]

8 Discussion

9 The WCR followed the opinions of Dr. Brautbar and Dr. Nathan to conclude
10 that applicant did sustain cumulative industrial injuries, though he does not set
11 forth any rationale in his Opinion on Decision.

12 The substantial evidence in the record does not justify the WCR's finding
13 that the applicant's condition arose out of and occurred in the course of her
14 employment. His conclusion that the "mental stress caused by applicant's work
15 resulted in a coronary condition," is not justified by the medical evidence. (Report
16 and Recommendation on Petition for Reconsideration 2/26/98, p. 4.)

17 Where there is evidence of considerable substantiality, we may reweigh the
18 evidence following our independent examination of the record to reach a
19 conclusion which differs from that of the WCR. (*Allied Compensation Ins. Co. v.*
20 *IAC (Lintz)* (1961) 57 Cal.2d 115 [26 Cal.Comp.Cases 241].)

21 It is well settled that the trier of fact has the power to choose from among
22 conflicting medical reports, those which he deems most appropriate (*Jones v.*
23 *Workers' Comp. Appeals Bd.* (1968) 86 Cal.2d 476), and the relevant and
24 considered opinion of one doctor may constitute substantial evidence even though
25 inconsistent with other reports in the record. (*Place v. Workers' Comp. Appeals*
26 *Bd.* (1970) 3 Cal.3d 372, 378 [35 Cal.Comp.Cases 525]; *Smith v. Workers' Comp.*
27 *Appeals Bd.* (1969) 71 Cal.2d 588, 592 [34 Cal.Comp.Cases 424]; *Patterson v.*
Workers' Comp. Appeals Bd. (1975) 53 Cal.App.3d 916, 921 [40 Cal.Comp.Cases
799].)

With regard to the issue of causation of applicant's myocardial infarction,

1 we find Dr. Arora's analysis most persuasive. While Dr. Brautbar ties the
2 applicant's job stress to the onset of her heart attack, he fails to explain the
3 causation of her coronary atherosclerotic condition, and the fact that there was no
4 occupational stress factors in play to trigger applicant's heart attack while she
5 was away from work on vacation. Dr. Arora precisely established the
6 relationship between applicant's personal lifestyle, the non-industrial risk factors
7 and her coronary heart disease. These significant risk factors included her 15
8 year cigarette habit, her obesity, her weight related high blood pressure, her
9 sedentary lifestyle and the onset of menopause. These risk factors combined with
10 the absence of an industrial trigger for her heart attack clearly supports a finding
11 that her heart disability was not contributed to by her employment. Accordingly,
12 we shall find that applicant sustained no industrial internal injury.

13 With regard to the issue of whether applicant sustained an industrial
14 psychiatric injury, we are persuaded that the applicant did not "demonstrate by a
15 preponderance of the evidence that actual events of employment were
16 predominant as to all causes combined of the psychiatric injury," as required by
17 Labor Code section 3208.3(b)(1).

18 Dr. Goldstein's medical opinion is substantial evidence to justify the
19 finding that actual events of applicant's employment were not the predominant
20 cause of her psychiatric injury. (*Cristobal v. Workers' Comp. Appeals Board*
21 (1996) 61 Cal Comp Cases 65 [writ denied].)

22 Dr. Goldstein had a full history of applicant's complaints of work stress, as
23 well as a clear understanding of the significant non-industrial stresses in her
24 life. These non-industrial stressors include her relationship with her son, which
25 applicant sought to minimize in her testimony, her relationship with her
26 parents, which was a major issue in her years of therapy, her significant
27 financial problems which led her to participate in Debtors Anonymous, her trip to

1 visit her boyfriend on the East Coast which led to his rejection of her, the death of
2 two close friends, her own health problems leading to the gallstone operation after
3 five months of extreme physical pain. These events are clearly more
4 consequential for the development of her psychiatric condition, coupled with her
5 pre-existing dependent personality disorder, as found by Dr. Goldstein. Though
6 applicant sought to downplay the extent of her non-industrial stressors, the
7 predominant cause of her depression was found by Dr. Goldstein to be non-work
8 related.

9 Applicant has not met her burden to establish "by a preponderance of the
10 evidence that actual events of employment were predominant as to all causes
11 combined of the psychiatric injury."

12 Accordingly, we shall reverse the finding of industrial injury.

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1 For the foregoing reasons,

2 **IT IS ORDERED** that, as our Decision After Reconsideration, the January
3 21, 1998 Findings and Award and Order is **RESCINDED**, and the following shall
4 be substituted therefor:

5 **FINDINGS OF FACT**

6 Sandra Reilly did not sustain a cumulative injury during the period of
7 January 7, 1995 through March 13, 1996 to her psyche and internal system,
8 arising out of and occurring in the course of her employment.

9 **ORDER**

10 **IT IS HEREBY ORDERED** that applicant shall take nothing further, except
11 for her medical-legal expenses, in an amount to be adjusted by defendant, with
12 jurisdiction reserved at the trial level.

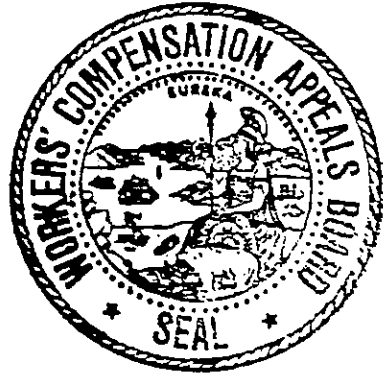
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14 **WORKERS' COMPENSATION APPEALS BOARD**

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16 *Aileen N. Heath*

17 **I CONCUR**

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19 *J. Wiegand*

20
21 *Douglas M. Moore*



22
23 **DATED AND FILED IN SAN FRANCISCO, CALIFORNIA**

24 **JUN 22 1998**

25 **SERVICE BY MAIL ON SAID DATE TO ALL PARTIES LISTED ON THE**
26 **OFFICIAL ADDRESS RECORD.**

27 *dl J. Francisco* 15
REILLY, SANDRA J.

F&A 291.18