WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA

PATRICK JAMERSON (DEC'D), ***Applicant***

vs.

COMMERCIAL METALS COMPANY;
AMERICAN ZURICH INSURANCE COMPANY, ***Defendants***

Adjudication Numbers: ADJ11011618; ADJ11011740; ADJ8129185
San Bernardino District Office

OPINION AND DECISION AFTER RECONSIDERATION

We previously 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 Commercial Metals Company, insured by American Zurich Insurance Company (defendant) seeks reconsideration of the October 18, 2020 Joint Findings of Fact, wherein, the workers' compensation administrative law judge (WCJ) determined that Labor Code section 5406(b) barred compensation for death benefits in Case No. ADJ8129185 (cumulative trauma from December 1, 1986 to December 1, 2011).[1] The WCJ also determined that defendant failed to meet the burden of proving that either section 5406(b) or section 5410 barred compensation in Case No. ADJ11011618 (date of injury May 4, 2016), or in ADJ11011740 (cumulative trauma from May 31, 1983 to June 10, 2016).

Defendant contends that the application for death benefits in Case No. ADJ8129185 (injury through December 1, 2011) was not timely reopened pursuant to section 5410. Defendant further contends that because the April 6, 2019 application for death benefits specified the dates of injury corresponding only to Case No. ADJ8129185 (injury through December 1, 2011), and because no separate applications for death benefits were filed in Case Nos. ADJ11011618 (date of injury

[1] All further statutory references are to the Labor Code unless otherwise stated.

May 4, 2016) and ADJ11011740 (injury through June 10, 2016), compensation in those cases is barred by section 5406(b).

Applicant filed an Answer to defendant's Petition. The WCJ filed a Report and Recommendation (Report), recommending that the Petition be denied because the September 6, 2019 application for death benefits contained all three case numbers, providing notice to defendant of the claimed injuries, and because public policy favors adjudication of the issues on the merits.

We have considered the allegations of the Petition, the Answer, the contents of the Report, and the record in this case. Based on our review of the record, for the reasons set forth in the Report, which we adopt and incorporate, and for the reasons set forth below, we will affirm the Findings of Fact.

FACTS

Decedent Patrick Jamerson filed three applications for *inter vivos* benefits. In ADJ8129185, decedent alleged injury during the period December 1, 1986 through December 1, 2011. The claim resolved via Stipulations with Request for Award, with the Award issuing September 8, 2014. Decedent did not file a petition for new and further disability.

In ADJ11011618, decedent alleged specific injury on May 4, 2016 to the neck and shoulder. The application was filed on September 8, 2017.

In ADJ11011740, decedent alleged injury between May 31, 1983 and June 10, 2016 to the neck, back, lower extremities, hearing and other body parts. The application was filed September 8, 2017.

Decedent died on September 25, 2018 of suicide.

Decedent's spouse and children (collectively, "applicant") filed an application for death benefits on September 6, 2019. The application lists Case Nos. ADJ11011618, ADJ11011740, and ADJ8129185. Under the date of injury, however, the petition lists only December 1, 1986 to December 1, 2011, and does not specify the dates of injury for either of the other two case numbers listed.

On April 17, 2020, applicant filed an Amended Application, including case numbers ADJ11011618 and ADJ11011740, and their corresponding dates of alleged injury.

The parties proceeded to trial on September 14, 2020. The parties placed in issue whether sections 5406(b) or 5410 barred compensation in all three cases.

The WCJ issued Joint Findings of Fact on October 18, 2020, determining that applicants' claim for death benefits in Case No. ADJ8129185 (injury through December 1, 2011) was barred under Section 5406(b). (Finding of Fact No. 2). The WCJ further found that defendant failed in its burden of proof to establish that benefits were barred under Section 5406(b) in ADJ11011618 (May 4, 2016 injury) and in ADJ11011740 (injury through June 10, 2016). (Finding of Fact No. 5.) In the Opinion on Decision, the WCJ observed that the application for adjudication of claim (death benefits) listed both Case Nos. ADJ11011618 and ADJ11011740, and because both of those cases were within the requisite one year of date of death and 240 weeks from date of injury, the application was timely filed as to those claimed injuries. The WCJ further determined section 5410 would not preclude applicant from seeking death benefits. (Finding of Fact No. 6.)

Defendant contends that the September 6, 2019 application for death benefits that listed three case numbers was procedurally defective, and that compensation in ADJ8129185 (injury through December 1, 2011) is barred by section 5406, as filed more than 240 weeks from the date of injury. Defendant also asserts that because applicant did not file separate applications for death benefits in ADJ11011618 (May 4, 2016 date of injury) or in ADJ11011740 (injury through June 10, 2016), section 5406(b) bars both claims. Defendant further contends that because applicant did not file a petition to reopen in ADJ8129185 (injury through December 1, 2011), jurisdiction has not been conferred on the Workers' Compensation Appeals Board to adjudicate any of the three pending death benefit cases.

DISCUSSION

We first address defendant's contention that the September 6, 2019 application for death benefits was procedurally defective because it listed more than one case number. Defendant contends "the inclusion of all three ADJ numbers on the Application for death benefits was procedurally improper – only one date of injury and one ADJ number is permitted per Application – and therefore cannot be construed to be a valid filing of an Application for death benefits for each of the three claims." (Petition, at 7:1.) Defendant also contends that Rule 10500(a) prohibits a WCJ or district office from requiring "the parties to use a form other than that prescribed and approved by the Appeals Board." (Cal. Code Regs., tit. 8, § 10500.) Defendant contends that applicant's failure to file three separate applications for death benefits invalidates the filings. (Petition, at 7:1.) We observe, however, that Rule 10500(a) proscribes *WCJs* or *local district*

offices from requiring unapproved ("local") forms, and does not address the issue herein of nonstandard pleadings filed by a *party*.

Turning to defendant's contentions regarding procedurally defective pleadings, we observe that the principles of "liberal pleading" have infused California's statutory landscape for more than 150 years. Enacted in 1872, Code of Civil Procedure section 452 requires that, "[i]n the construction of a pleading, for the purpose of determining its effect, its allegations must be liberally construed, with a view to substantial justice between the parties." Also enacted in 1872, Code of Civil Procedure section 473 provides in pertinent part, "[t]he court may, upon any terms as may be just, relieve a party or his or her legal representative from a judgment, dismissal, order, or other proceeding taken against him or her through his or her mistake, inadvertence, surprise, or excusable neglect." (Cal. Code Civ. Proc. § 473(b).) Enacted more "recently" in 1963 is Code of Civil Procedure section 576, which provides that, "[a]ny judge, at any time before or after commencement of trial, in the furtherance of justice, and upon such terms as may be proper, may allow the amendment of any pleading or pretrial conference order." What follows from these statutory pronouncements is more than a century of consistent jurisprudence emphasizing the public policy preference favoring adjudication on the merits, rather than on procedural deficiencies. In 1890, the California Supreme Court opined:

> The principal purpose of vesting the court with the discretionary power to correct "a mistake in any other respect" is to enable it to mold and direct its proceedings so as to dispose of cases upon their substantial merits, when it can be done without injustice to either party, whether the obstruction to such a disposition of cases be a mistake of fact or a mistake as to the law, although it may be that the court should require a stronger showing to justify relief from the effect of a mistake of law than of a mistake of fact. (*Ward v. Clay* (1890) 82 Cal. 502, 23 P. 50, 1890 Cal. LEXIS 591.)

In applying the rule of liberal pleading, however, California courts have also been careful to balance the due process rights of opposing parties. In *Dunzweiler v. Superior Court of Alameda County* (1968) 267 Cal.App.2d 569, 577 [73 Cal. Rptr. 331], the Court of Appeal observed:

> If the motion to amend is timely made and the granting of the motion will not prejudice the opposing party, it is error to refuse permission to amend and where the refusal also results in a party being deprived of the right to assert a meritorious cause of action or a meritorious defense, it is not only error but an abuse of discretion. [Citations.] And as stated in *Jepsen v. Sherry* (1950) 99 Cal.App.2d 119, 121 [220 P.2d 819], the discretion to be exercised by trial courts

> is "one controlled by legal principles and is to be exercised in accordance with the spirit of the law and with a view to subserving, rather than defeating, the ends of substantial justice." (*Dunzweiler v. Superior Court of Alameda County, supra,* 267 Cal.App.2d at 577.)

The workers' compensation system "was intended to afford a *simple and nontechnical path* to relief. (Italics added.)" (*Elkins v. Derby* (1974) 12 Cal.3d 410, 419 [39 Cal.Comp.Cases 624] citing 1 Hanna, Cal. Law of Employee Injuries and Workmen's Compensation (2d ed. 1973) § 4.01[1], pp. 4-2 to 4-3. Cf. Cal. Const., art. XX, § 21; § 3201.) Generally, "the informality of pleadings in workers' compensation proceedings before the Board has been recognized. (*Zurich Ins. Co. v. Workmen's Comp. Appeals Bd.* (1973) 9 Cal.3d 848, 852 [38 Cal.Comp.Cases 500, 512]; *Bland v. Workmen's Comp. App. Bd.* (1970) 3 Cal.3d 324, 328–334 [35 Cal.Comp.Cases 513].) "[I]t is an often-stated principle that the Act disfavors application of formalistic rules of procedure that would defeat an employee's entitlement to rehabilitation benefits. (*Martino v. Workers' Comp. Appeals Bd.*, (2002) 103 Cal.App.4th 485, 490 [67 Cal.Comp.Cases 1273].) Informality of pleading in proceedings before the Board is recognized and courts have repeatedly rejected pleading technicalities as grounds for depriving the Board of jurisdiction. (*Rubio v. Workers' Comp. Appeals Bd.* (1985) 165 Cal.App.3d 196, 200-01 [50 Cal.Comp.Cases 160]; *Liberty Mutual Ins. Co. v. Workers' Comp. Appeals Bd.* (1980) 109 Cal.App.3d 148, 152-153 [45 Cal.Comp.Cases 866].) Moreover, section 5709 states that "[n]o informality in any proceeding or in the manner of taking testimony shall invalidate any order, decision, award, or rule made and filed as specified in this division…" (Lab. Code, § 5709.) "Necessarily, failure to comply with the rules as to details is not jurisdictional." (*Rubio, supra,* at 200–201; see Cal. Code Regs., tit. 8, § 10517.)

Additionally, it is the policy of the law to favor, whenever possible, a hearing on the merits. (*Fox v. Workers' Comp. Appeals Bd.*, (1992) 4 Cal.App.4th 1196, 1205; see also *Shamblin v. Brattain* (1988) 44 Cal.3d 474, 478, "when a party in default moves promptly to seek relief, very slight evidence is required to justify a trial court's order setting aside a default.") This is particularly true in workers' compensation cases, where there is a constitutional mandate "to accomplish substantial justice in all cases." (Cal. Const., art. XIV, § 4.) Therefore, in workers' compensation proceedings, it is settled law that: (1) pleadings may be informal (*Zurich Ins. Co. v. Workmen's Comp. Appeals Bd. (Cairo)* (1973) 9 Cal.3d 848, 852 [38 Cal.Comp.Cases 500]; *Bland v. Workmen's Comp. Appeals Bd., supra,* 3 Cal.3d 324, 328–334; *Martino v. Workers' Comp.*

Appeals, supra, 103 Cal.App.4th 485, 491; *Rivera v. Workers' Comp. Appeals Bd.* (1987) 190 Cal.App.3d 1452, 1456 [52 Cal.Comp.Cases 151]; *Liberty Mutual Ins. Co v. Workers' Comp. Appeals Bd. (Aprahamian)* (1980) 109 Cal.App.3d 148, 152–153 [45 Cal.Comp.Cases 866]; *Blanchard v. Workers' Comp. Appeals Bd.* (1975) 53 Cal.App.3d 590, 594–595 [40 Cal.Comp.Cases 784]; *Beaida v. Workmen's Comp. Appeals Bd.* (1968) 263 Cal.App.2d 204, 207–210 [35 Cal.Comp.Cases 245]); (2) claims should be adjudicated based on substance rather than form (*Bland v. Workmen's Comp. Appeals Bd., supra,* 3 Cal.3d 324, 328–334; *Martino v. Workers' Comp. Appeals, supra,* 103 Cal.App.4th 485, 491; *Bassett-McGregor v. Workers' Comp. Appeals Bd.* (1988) 205 Cal.App.3d 1102, 1116 [53 Cal.Comp.Cases 502]; *Rivera*, *supra,* 190 Cal.App.3d at p. 1456; *Beveridge v. Industrial Acc. Com.* (1959) 175 Cal.App.2d 592, 598 [24 Cal.Comp.Cases 274]); (3) pleadings should liberally construed so as not to defeat or undermine an injured employee's right to make a claim (*Sarabi v. Workers' Comp. Appeals Bd. (2007)* 151 Cal.App.4th 920, at pp. 925–926 [72 Cal.Comp.Cases 778]); *Martino v. Workers' Comp. Appeals, supra,* 103 Cal.App.4th 485, 490; *Rubio v. Workers' Comp. Appeals Bd.*, *supra,* 165 Cal.App.3d 196, 199–201; *Aprahamian*, *supra,* 109 Cal.App.3d at pp.152–153; *Blanchard, supra,* 53 Cal.App.3d at pp. 594–595; *Beaida*, *supra,* 263 Cal.App.2d at pp. 208–209); and (4) technically deficient pleadings, if they give notice and are timely, normally do not deprive the Board of jurisdiction. (*Bland v. Workmen's Comp. Appeals Bd., supra,* 3 Cal.3d 324, 331–332 & see fn. 13; *Rivera*, *supra,* 190 Cal.App.3d at p. 1456; *Aprahamian*, 109 Cal.App.3d at pp. 152–153; *Blanchard*, *supra,* 53 Cal.App.3d at pp. 594–595; *Beaida*, *supra,* 263 Cal.App.2d at pp. 208–210).)

Reflecting these principles, Rule 10617 of the WCAB's Rules of Practice and Procedure provides:

> (a) An Application for Adjudication of Claim, a petition for reconsideration, a petition to reopen or any other petition or other document that is subject to a statute of limitations or a jurisdictional time limitation shall not be rejected for filing solely on the basis that:
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> (1) The document is not filed in the proper office of the Workers' Compensation Appeals Board;
>
> (2) The document has been submitted without the proper form, or it has been submitted with a form that is either *incomplete* or *contains inaccurate information*; or
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> (3) The document has not been submitted with the required document cover sheet and/or document separator sheet(s), or it has been submitted with a document cover sheet and/or document separator sheet(s) not containing all of the required information.

(Cal. Code Regs., tit. 8, former § 10397, now § 10617 (eff. Jan. 1, 2020), *emphasis added*.)

The rule thus provides for considerable latitude in accepting nonstandard pleadings, so long as the pleadings contain "a combination of information sufficient to establish the case or cases to which the document relates or, if it is a case opening document, sufficient information to open an adjudication file." (Cal. Code Regs., tit. 8, former § 10397, now §10617(b).) Similarly, Rule 10517 specifies that pleadings are deemed amended to conform to the stipulations agreed to by the parties on the record or may be amended by the Appeals Board to conform to proof. (Cal. Code Regs., tit. 8, former § 10492, now §10517.) These rules represent the application of California's public policy in favor of adjudication of claims on their merits, rather than on the technical sufficiency of the pleadings.

Additionally, we observe, "the Board's procedural rules 'serve the convenience of the tribunal and the [litigants] and facilitate the proceedings. They do not deprive the tribunal of the power to dispense with compliance when the purposes of justice require it, particularly when the violation is formal and does not substantially prejudice the other party.' (*Beaida v. Workmen's Comp. App. Bd.*, *supra*, 263 Cal.App.2d at p. 210; *Blanchard v. Workers' Comp. Appeals Bd.*, *supra*, 53 Cal.App.3d at p. 595.) If a party is disadvantaged by the insufficiency of a pleading, the remedy is to grant that party a reasonable continuance to permit it to prepare its case or defense. (*Blanchard, supra*, at p. 595.) Necessarily, failure to comply with the rules as to details is not jurisdictional. (*Ray v. Industrial Acc. Com.* (1956) 146 Cal.App.2d 393, 397 [303 P.2d 793].)

These principles of liberal pleading are further reflected in section 5506, which authorizes the Appeals Board to relieve a defendant from default or dismissal due to mistake, inadvertence, surprise or excusable neglect in accordance with Code of Civil Procedure section 473. The Court of Appeal has made it clear that the protections afforded under Code of Civil Procedure section 473(b) are applicable in workers' compensation proceedings. (*Fox v. Workers' Comp. Appeals Bd., supra*, 4 Cal.App.4th 1196 [57 Cal.Comp.Cases 149].)

With these principles in mind, we address defendant's contention that the September 6, 2019 application for death benefits impermissibly listed three case numbers on the same form. While Rule 10455(a) of the Rules of Practice and Procedure requires that "[o]nly one application shall be filed for each injury," the Appeals Board retains the power to dispense with strict compliance when the purposes of justice require it. (Cal. Code Regs., tit. 8, § 10455; *Beaida, supra*,

263 Cal.App.2d at 210.) Here, we are persuaded that the interests of substantial justice are better served by adjudication on the merits of each of the three cases, rather than dismissal by administrative fiat for technical noncompliance in pleadings.

Additionally, defendant offers no persuasive argument for prejudice, and we discern none in the record. The September 6, 2019 Application for Death Benefits listed all three *inter vivos* cases previously filed by applicant. Two of the three cases listed on the September 6, 2019 application for death benefits (ADJ11011618 and ADJ11011740) were pending with respect to claimed *inter vivos* benefits at the time of the filing, and remain pending currently. Defendant was aware of, and had filed Answers to, the existing *inter vivos* claims at the time of the filing of the September 6, 2019 application for death benefits. The third case listed on the application for death benefits (ADJ8129185, injury through December 1, 2011) had previously resolved by a stipulated Award on September 8, 2014, with provision for open future medical care. We are thus persuaded that defendant was not prejudiced by the filing of all three case numbers on one application, as the defendant would have been able to marshal evidence and witnesses responsive to the application for death benefits on three claims already in existence. We conclude that defendant was reasonably put on notice that applicant was asserting a cause of action arising out of the three existing cases. (See *Zurich Ins. Co. v. Workers' Comp. Appeals Bd.* (1973) 9 Cal.3d 848, 852 [38 Cal.Comp. Cases 500] [absence of petition to reopen could not have prejudiced employer who received notice of hearing stating the ground for relief].)

Given the informality of pleadings in proceedings before the Board, and the reasonable notice to the parties of the pleadings in all three cases listed on the September 6, 2019 application, we conclude that, "[s]uch action was thereby commenced[,] though the application was irregular with respect to details." (*Ray v. Industrial Acc. Com., supra,* 146 Cal.App.2d 393, 397.) Accordingly, we find the September 6, 2019 application to be a valid filing of an application for adjudication on all three listed cases.

Next, defendant asserts that notwithstanding the listing of three case numbers, the application for death benefits filed September 6, 2019 specified only the cumulative trauma injury ending December 1, 2011. Because applicant filed no Petition for New and Further Disability, defendant contends the Appeals Board "has no jurisdiction over the amendment made to the claim's original application on 4/17/20 which purported to include the additional two dates of injury." (Petition, at 5:21.) In essence, defendant argues that applicant could not amend the original

September 6, 2019 application, because the Appeals Board was without jurisdiction over the previously settled injury ending December 1, 2011. However, because we conclude that the September 6, 2019 Application was valid as to all three case numbers listed, and further that defendant had reasonable notice that applicant was asserting injury resulting in death arising out of all three listed case numbers, the issue of whether the Appeals Board had continuing jurisdiction over the December 1, 2011 CT claim is immaterial. We note further that "[i]t is well settled that a dependent's right to the statutory death benefits is not derived from the rights of the deceased employee. The dependent's right is 'independent and severable from the employee's claim for disability compensation.'" (*Berkebile v. Workers Compensation Appeals Bd. of California & Johns-Manville Sales Corp.*, (1983) 144 Cal.App.3d 940, 944 [48 Cal.Comp.Cases 438, 441].) Accordingly, we conclude that a timely petition to reopen ADJ8129185 (injury through December 1, 2011) was not a prerequisite to applicant's claim for death benefits in ADJ11011618 (specific injury of May 4, 2016) or ADJ11011740 (injury through June 10, 2016).

Defendant further contends that because separate applications for death benefits were not filed in Case Nos. ADJ11011618 or ADJ11011740, section 5406(b) bars compensation in both cases. The time for the commencement of proceedings to collect death benefits under section 4700 et seq., is set forth in section 5406, which states:

> (a) Except as provided in Section 5406.5, 5406.6, or 5406.7, the period within which may be commenced proceedings for the collection of benefits provided by Article 4 (commencing with Section 4700) of Chapter 2 of Part 2 is one year from:
>
> (1) The date of death if death occurs within one year from date of injury.
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> (2) The date of last furnishing of any benefits under Chapter 2 (commencing with Section 4550) of Part 2, if death occurs more than one year from the date of injury.
>
> (3) The date of death, if death occurs more than one year after the date of injury and compensation benefits have been furnished.
>
> (b) Proceedings shall not be commenced more than one year after the date of death, nor more than 240 weeks from the date of injury.

Pursuant to section 5406(b), applicant must file a claim to collect death benefits within one year of the date of the injured workers' death and within 240 weeks from the date of injury. (*Ruiz v. Industrial Acci. Com.*, (1955) 45 Cal.2d 409, 413–414 [20 Cal.Comp.Cases 265].) The running of the statute of limitations is an affirmative defense, and the burden of proving it is on the party

opposing the claim. (Lab. Code, § 5409; *Kaiser Foundation Hospitals v. Workers' Comp. Appeals Bd. (Martin)* (1985) 39 Cal.3d 57, 67, fn. 8 [50 Cal.Comp.Cases 411].)

Here, the date of death was September 25, 2018, with the filing of the application for death benefits on September 6, 2019. Applicant thus filed the claims within one year of the date of death. (Lab. Code § 5406(a).)

With respect to the requirement of commencement of proceedings within 240 weeks, the WCJ determined that compensation in ADJ8129185 (injury ending December 1, 2011) was barred by section 5406(b). (*Ruiz v. Industrial Acci. Com., supra,* 45 Cal.2d 409.) Applicant has not sought reconsideration of this finding, and the determination is now final. (Lab. Code section 5904; *Loomis Corp. v. Workers' Comp. Appeals Bd. (McDermott)* (1992) 47 Cal.Comp.Cases 16 [1992 Cal.Wrk.Comp. LEXIS 2875] (writ den.).) However, pursuant to our finding that the application of September 6, 2019 applied to all three cases listed therein, we find the application in ADJ11011618 (May 4, 2016 date of injury) was filed within 240 weeks of the date of injury. Based on this finding, we need not reach the issue of whether there is a different section 5412 date of injury in ADJ11011740 (injury through June 10, 2016). Accordingly, we agree with the WCJ's findings that the defendant has not met the burden of establishing that the September 6, 2019 application is barred under section 5406(b).[2]

In summary, we conclude that notwithstanding procedural irregularities in the filing, the September 6, 2019 application for death benefits was valid as to all three case numbers listed therein. We further conclude that the filing of a petition to reopen in ADJ8129185 (injury ending December 1, 2011) was not a prerequisite to the filing of an application in any of the three cases listed in the September 6, 2019 application for death benefits. Finally, we agree with the WCJ that defendant has met its burden of establishing that section 5406(b) bars the claim for death benefits in ADJ8129185 (injury of December 1, 1986 through December 1, 2011), but that defendant has not met that burden in ADJ11011618 (May 4, 2016 date of injury) or ADJ11011740 (injury

[2] Section 5406(a) also requires the commencement of proceedings within one year of either (1) the date of death if death occurs within one year from date of injury, (2) the date of last furnishing of any benefits under Chapter 2 (commencing with Section 4550) of Part 2, if death occurs more than one year from the date of injury, or (3) the date of death, if death occurs more than one year after the date of injury and compensation benefits have been furnished. The record contains no indication of whether defendant has furnished compensation in Case Nos. ADJ11011618 or ADJ11011740. However, the Petition raises no issue with respect to section 5406(a), and any such issue is now waived. (Cal. Lab. Code § 5409; see also *Kaiser Foundation Hospitals v. Workers' Comp. Appeal Bd.* (1978), 82 Cal. App.3d 39 [43 Cal.Comp.Cases 661].)

through June 10, 2016). Accordingly, we affirm the WCJ's October 18, 2020 Joint Findings of Fact.

For the foregoing reasons,

IT IS ORDERED as the **DECISION AFTER RECONSIDERATION** of the Workers' Compensation Appeals Board that the October 18, 2020 Joint Findings of Fact is **AFFIRMED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ MARGUERITE SWEENEY, COMMISSIONER

I CONCUR,

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER

/s/ JOSÉ H. RAZO, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

March 9, 2022

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

REBECCA JAMERSON
LERNER, MOORE, SILVA, CUNNINGHAM & RUBEL
PARKER, KERN, NARD & WENZEL

SAR/abs

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