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WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA

BRIGETTE LEONARD,

Applicant,

vs.

**SANTA MONICA-MALIBU UNIFIED
SCHOOL DISTRICT, permissibly self-insured,
administered by KEENAN & ASSOCIATES,**

Defendants.

Case No. ADJ9713798
(Van Nuys District Office)

**OPINION AND ORDER
DENYING PETITION
FOR RECONSIDERATION**

We have considered the allegations of defendant's Petition for Reconsideration, applicant's answer and the contents of the Report of the workers' compensation administrative law judge (WCJ) issued with respect thereto. Based on our review of the record and for the reasons stated in the WCJ's Report, which we adopt and incorporate herein, we will deny defendant's Petition.

We agree with the WCJ's findings that applicant's psychiatric injury was not a direct injury and she has sustained a catastrophic injury per Labor Code section 4660.1(c)(2)(B). However, we note that the WCJ found that applicant's injury is "catastrophic" in part because applicant has suffered multiple health issues as a result of her industrial thyroid cancer, amongst which the WCJ noted her depression, anxiety and stress in both his Opinion on Decision and Report. The WCJ also described the impact to applicant's activities of daily living (ADLs) as moderate pursuant to the report of the psychiatric qualified medical evaluator. In *Wilson v. State of CA Cal Fire* (2019) 84 Cal.Comp.Cases 393, 414 (Appeals Board en banc), the Appeals Board opined that the "injury must be...deemed catastrophic independent of the psychiatric injury" in order to receive an increased impairment rating under section 4660.1(c)(2)(B). To the extent that the WCJ considered applicant's psychiatric injury and its impact on her ADLs in evaluating whether her physical injury is catastrophic, we reject such considerations as inconsistent with *Wilson*.

However, independent of applicant's psychiatric injury, the evidence supports the WCJ's finding

1 that her injury is catastrophic and she may therefore receive an increased impairment rating for her
2 psychiatric disability under section 4660.1(c)(2)(B). Applicant has thyroid cancer, gastroesophageal
3 reflux disorder (GERD) and hypertension as a result of cumulative exposure during her employment by
4 defendant. The evidence reflects significant medical treatment including a total thyroidectomy,
5 radioactive iodine therapy and hormone replacement therapy. Her industrial conditions will require
6 lifelong medical attention. While the ultimate outcome of her injury remains uncertain, the WCJ
7 correctly noted that cancer still carries the risk of death. Applicant's industrial physical injury is not the
8 type of claim that the Legislature intended to preclude from receiving a psychiatric disability rating.

9 Therefore, we will deny defendant's Petition.

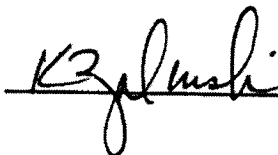
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1 For the foregoing reasons,

2 **IT IS ORDERED** that defendant's Petition for Reconsideration of the Findings and Award and
3 Order of Commutation issued by the WCJ on October 1, 2019 is **DENIED**.

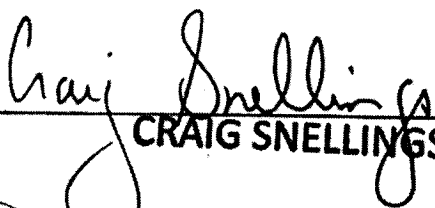
4 **WORKERS' COMPENSATION APPEALS BOARD**

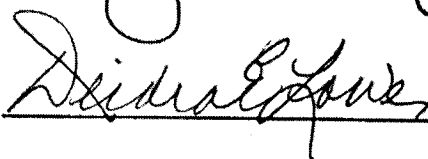
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6 **CHAIR**

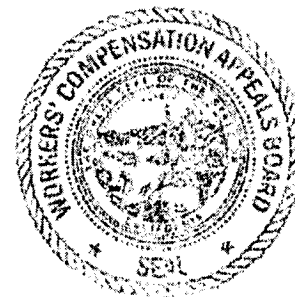
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8 **KATHERINE ZALEWSKI**

9 **I CONCUR,**

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11 **CRAIG SNELLINGS**

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13 **DEIDRA E. LOWE**



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17 **DATED AND FILED AT SAN FRANCISCO, CALIFORNIA**

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19 **DEC 20 2019**

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

22 **BRIGETTE LEONARD**
23 **LANSFORD & CARBONARA**
24 **ROWEN, GURVEY & WIN**

25 *Al/pc*