

Significant Decision

***Eternal vigilance is the price of reform.
Court of Appeal protects 1989 and 1993 reforms
requiring predominant industrial
causation for psychiatric injuries.***

*Sonoma State University and Octagon Risk Services v.
WCAB and Lesley Hunton
Court of Appeal, 1st District, Division 4 (San Francisco)
Civ. No. A113590
WCAB Nos. SRO 111451/2, SRO 120922
Filed August 29, 2006
2006 Cal. App. LEXIS 1313*

Significance:

The Court of Appeal for the First District, Division 4 held that a psychiatric injury cannot be parsed into separately diagnosable components for purposes of satisfying the predominant cause standard of Labor Code section 3208.3(b)(1).¹ In so holding, the Court fended off an attempt to seriously weaken the reforms of 1989 and 1993, which established thresholds for claims of injury to the psyche.

Facts:

Applicant alleged psychiatric injury from cumulative trauma arising out of and in the course of her employment as a police dispatcher for Sonoma State University. The AME opined that 65% of her disability was due to nonindustrial factors and 35% was due to industrial causes. The AME identified the following diagnoses based upon DSM-IV: adjustment disorder with mixed emotional features, dysthymic disorder, and avoidant personality traits. The AME identified the adjustment disorder as “industrially caused.”

The WCJ found that applicant had met her burden of showing that her injury to the psyche was predominantly caused by actual events of employment. The Appeals Board upheld the WCJ’s decision. It concluded that, even though only 35% of her overall disability was work related, she satisfied the requirements of section 3208.3 because 100% of her *adjustment disorder* was industrially caused.

On Petition for Writ of Review, Sonoma State argued that applicant did not meet the predominant cause threshold because work events had caused only 35% of her overall psychiatric disability.

Holding and Rationale:

¹ “In order to establish that a psychiatric injury is compensable, an employee shall demonstrate by a preponderance of the evidence that actual events of employment were predominant as to all causes combined of the psychiatric injury.”

The Court of Appeal held that the WCAB's interpretation would undermine rather than effectuate the intent of the Legislature in establishing the 10% threshold for psychiatric injuries in 1989 reforms and the current predominant-cause (51%) threshold in 1993 legislation.

Finding that the language of the section 3208.3 did not resolve the issue, the Court looked to the legislative history of the reform provisions. With the 10% threshold in place, the Legislature further tightened the requirements for compensating psychiatric injury in 1993 by amending section 3208.3 to require "predominant" industrial causation. The Court noted that "[t]his amendment was apparently intended to further combat fraudulent psychiatric claims." The Court also pointed out that the Governor's signature message stated, "[t]his package of reforms saves money by tightening the standard for stress claims in the system, the fastest growing type of claims in . . . workers' compensation."

Allowing each diagnosable psychological disorder to be analyzed separately would create a lower rather than higher threshold for compensability, would result in more stress claims, and would provide more potential for fraud. Also, the WCAB's interpretation would lead to unfair results if an applicant with 10% overall industrial causation were awarded benefits on the basis of an isolated diagnosis, while another applicant with a single diagnosis at 50% industrial causation would not meet the 51% threshold for eligibility. "This interpretation would award compensation to those applicants whose experts are prompted to parse the psychological injuries into separate diagnoses even though the work-induced components are de minimis, while precluding compensation for employees whose work was a substantial factor in causing their injuries but whose experts did not or could not make compartmentalized diagnoses."

Accordingly, the Court concluded that the standard of section 3208.3 is met only if it is proven that events of employment were predominant as to all causes combined of the psychiatric injury *taken as a whole*.

Note:

The official case citation is not yet available. The full opinion is available at the Lexis at the citation noted above and on the Court's website at:

<http://www.courtinfo.ca.gov/opinions/documents/A113590.DOC>

(press CTRL and click on link.)