

STATE OF CALIFORNIA
DIVISION OF WORKERS' COMPENSATION
WORKERS' COMPENSATION APPEALS BOARD

Case No. ADJ7752496

MARJORIE BRANDON,
Applicant

vs.

PRO HEALTH;
BERKSHIRE HATHAWAY SAN
FRANCISCO,
Defendants.

FINDING OF FACT
AND ORDER

WARREN W. GREENE, ATTORNEY AT LAW
By: WARREN W. GREENE
Attorneys for Attorney

BRADFORD & BARTHEL VENTURA
By: CLAIRE CARSON
Attorneys for Defendant (s)

The Honorable Scott J. Seiden, Workers' Compensation Administrative Law Judge,
makes his Finding of Fact and Order as follows:


FINDING OF FACT

1. It is found Applicant did not sustain injury arising out of or in the course of employment.

ORDER

For the reasons set forth in the Opinion of Judge on Decision, and GOOD CAUSE APPEARING, therefore it is hereby **ORDERED** that MARJORIE BRANDON take nothing by way of her workers' compensation claims.

Date: 8/5/15



Scott J. Seiden
Workers' Compensation Administrative Law Judge

Served on:
MARJORIE BRANDON SANTA BARBARA, US Mail
WARREN GREENE VENTURA, US Mail
BRADFORD BARTHEL VENTURA, US Mail
BERKSHIRE HATHAWAY SAN FRANCISCO, US Mail

Dated: August 5, 2015
Service on parties above by preferred method per EAMS.
By: *Cynthia Weber*

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF WORKERS' COMPENSATION

08-05-2015

OFFICIAL ADDRESS RECORD

Case Number: ADJ7752496

BERKSHIRE
HATHAWAY SAN
FRANCISCO

Insurance Company, PO BOX 881716 SAN FRANCISCO CA 94188

BRADFORD BARTHEL
VENTURA

Law Firm, 5720 RALSTON ST STE 200 VENTURA CA 93003, E-
DOCS@BRADFORDBARTHEL.COM

MARJORIE BRANDON

Injured Worker, 2904 STATE ST SANTA BARBARA CA 93105

PRO HEALTH INC

Employer, 2040 ALAMEDA PADRE SERRA STE 101 SANTA BARBARA
CA 93103

WARREN GREENE
VENTURA

Law Firm, 958 E MAIN ST VENTURA CA 93001

STATE OF CALIFORNIA
DIVISION OF WORKERS' COMPENSATION
WORKERS' COMPENSATION APPEALS BOARD

WCAB CASE NO.: ADJ7752496

MARJORIE BRANDON

vs.

PRO HEALTH
BERKSHIRE HATHAWAY

Date of Injury:

DEC. 20, 2007 – MARCH 4, 2011

Workers' Compensation
Administrative Law Judge

Scott J. Seiden

OPINION ON DECISION

STIPULATIONS:

The stipulations of the parties as set forth in the Minutes of hearing are accepted as fact.

INJURY ARISING OUT OF AND IN THE COURSE OF EMPLOYMENT

Applicant testified that the only issue she had was an unfair write up by her supervisor. In performing a *Rolda* analysis, it is found that there were actual events of employment, (e.g. her write up for performance issues) but that these events of employment were the result of good faith personnel actions. Further, the AME and PQME found that even if there were not lawful good faith personnel actions, Applicant's psychiatric disability does not meet the predominant cause test of being related to her employment. Applicant's claim is barred pursuant to L.C. § 3208.3.


Based on the testimony of Applicant, with due consideration for her demeanor and the credibility of the defense witness together with the medical reporting of David Reiss, M.D. and Gerald Markovitz, M.D., it is found Applicant did not sustain injury arising out of or in the course of employment and that she take nothing by way of her workers' compensation claim.

EVIDENCE

Applicant's exhibit 2, medical report of Michael M. Ferguson, M.D. is admitted into evidence. However, the doctor's report is not substantial medical evidence. It does not contain an adequate *Rolda* analysis nor does it state the legal acceptable standard of "beyond reasonable medical probability" lastly, the report does not contain many of the formalities required of a reporting physician in a workers' compensation claim,

pecially; there is no provision declaring the report is under penalty of perjury. There are numerous other deficiencies with the medical report, but it was not relied upon by the WCJ, so there is no reason to develop the record.

Dated: 8/5/16



SCOTT J. SEIDEN
Workers' compensation Administrative Law Judge

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BRADFORD BARTHEL VENTURA, Email

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