

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

WORKERS' COMPENSATION APPEALS BOARD  
STATE OF CALIFORNIA

SANDRA SEERAM,	)	
	)	
APPLICANT,	)	
	)	
VS.	)	CASE NO. ADJ12217188;
	)	ADJ12217216
	)	VOLUME I
JP MORGAN CHASE; BROADSPIRE BREA;	)	
	)	
DEFENDANTS.	)	

---

VIDEO CONFERENCE DEPOSITION OF EDWARD SPENCER,  
M.D., taken on behalf of the Defendants, at utilizing ZOOM  
Cloud platform to host all participants from their  
respective locations, commencing at 10:05 A.M., Monday,  
November 23, 2020, before Melinda S. Womelsdorf, Certified  
Shorthand Reporter, License No. 13124, for the State of  
California, pursuant to Notice.

1 APPEARANCES:

2

3 For the Applicant, SANDRA SEERAM:

4 WORKERS DEFENDERS ANAHEIM  
5 BY: NATALIA FOLEY, ESQ.  
6 8018 E. Santa Ana Canyon Road  
7 Suite 100 215  
8 Anaheim, California 92808  
9 nfoleylaw@gmail.com  
10 (Appearing via ZOOM Video Conference)

11 For the Defendants, JP MORGAN CHASE; BROADSPIRE BREA:

12 DIETZ, GILMOR & CHAZEN  
13 BY: SHANTEY MIRZAKHANYAN, ESQ.  
14 6345 Balboa Boulevard, Building II, Suite 225  
15 Encino, California 91316  
16 (818) 654-9911  
17 shantey@dgcattorneys.com  
18 (Appearing via ZOOM Video Conference)

19

20

21

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I N D E X

WITNESS

EDWARD SPENCER, M.D.

PAGE

Examination by Ms. Mirzakhanyan

6

E X H I B I T S

NO EXHIBITS OFFERED.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

SAN BERNARDINO, CALIFORNIA  
MONDAY, November 23, 2020  
AT 10:05 AM

THE REPORTER: We are starting the deposition proceeding. My name is Melinda Womelsdorf. My CSR number is 13124.

We are here today for the deposition entitled Sandra Seeram versus JP Morgan Chase; Broadspire Brea. Today's date is November 23rd, 2020. The time is now 10:05 a.m. This deposition is taking place remotely via ZOOM capabilities.

All counsel have agreed to me swearing in the deponent remotely and to proceed with the deposition proceedings virtually.

Is that correct, Counsel?

MS. FOLEY: Yes.  
MS. MIRZAKHANYAN: Yes.

THE REPORTER: Thank you.

Counsel, if you would introduce yourselves and state your appearances, please.

MS. FOLEY: Okay. This is Natalia Foley, applicant attorney, representing Sandra Seeram and -- for Workers Defenders Law Group.

1 MS. MIRZAKHANYAN: Shantey Mirzakhanyan with Dietz,  
2 Gilmor and & Chazen, on behalf of defendant, JP Morgan  
3 Chase, administered by Broadspire.

4 THE REPORTER: Thank you.

5 Would the witness please raise his right hand  
6 to be sworn in?

7

8 EDWARD SPENCER, M.D.,  
9 Having been first duly sworn, was  
10 examined and testified as follows:

11

12

EXAMINATION

13 BY MS. MIRZAKHANYAN:

14 Q Good morning, Dr. Spencer.

15 A Good morning.

16 Q So my name is Shantey Mirzakhanyan, and, as I  
17 indicated, I'm here representing JP Morgan Chase in this  
18 matter. And we are going to discuss the work-related  
19 injuries of Sandra Seeram.

20 You evaluated Seeram on August 5, 2020, and  
21 prepared your initial report dated August 28, 2020; is  
22 that correct?

23 A That's correct.

24 Q And there were no other reports prepared in  
25 this case; correct?

1 to really tell you what happened at work beyond what  
2 she's saying happened at work.

3 Q And you diagnosed the applicant with  
4 adjustment disorder with mixed anxiety and depression;  
5 is that correct?

6 A That's correct.

7 Q So I want to first begin with your findings  
8 regarding causation of her psychiatric injury. And I  
9 apologize, Dr. Spencer, but I'm just -- just need  
10 clarification.

11 Do you find evidence of a psychiatric injury  
12 on an industrial basis?

13 A Yes. There is evidence that -- from her  
14 reporting and from the medical records, I believe that  
15 there was a psychiatric injury on an industrial basis.

16 Q And what percentage of her psychiatric injury  
17 is industrial?

18 A I would say a total of 90 percent.

19 Q Now, do you provide a breakdown of your -- I  
20 know that you discuss, at one point, like a 70, 20, and  
21 10 percent split. So are you just combining the 70 and  
22 20 to get the 90 percent?

23 A Yes. That was what I just did in my head.

24 Q Okay.

25 A The 70 percent kind of represented the main

1 A Correct.

2 Q Any changes that you'd like to make to your  
3 reporting before we begin?

4 A Not at this time.

5 Q Can you please state your full name for the  
6 record?

7 A Dr. Edward Spencer.

8 Q Do you want to waive your admonitions?

9 A Yes. We can waive the admonitions.

10 MS. MIRZAKHANYAN: Counsel, can we stipulate to the  
11 doctor's qualifications as the psychiatric QME?

12 MS. FOLEY: So stipulated.

13 BY MS. MIRZAKHANYAN:

14 Q And did you prepare for today's deposition?

15 A Yes.

16 Q Do you have an independent recollection of the  
17 applicant, or are you primarily relying on the report  
18 that you wrote in preparation for today's deposition?

19 A I remember meeting with her.

20 Q And did you find the applicant to be a  
21 credible historian?

22 A I would say that there were some aspects of  
23 her overall evaluation that suggested some exaggeration  
24 but her statements about what had happened were  
25 corroborated by the records that I reviewed. So I felt

1 that, overall, she was credible.

2 Q And just to clarify, when you say her  
3 statements were corroborated by records reviewed, they  
4 were -- you only reviewed her medical records, so her  
5 statements to other doctors; is that correct?

6 A Yes. What I -- what I kind of mean by that  
7 is, when she was describing the circumstances of stress  
8 and when she first developed symptoms of stress, that  
9 was supported by the records that I reviewed. I didn't  
10 have any other nonmedical records about what -- what  
11 kind of work conditions she was experiencing.

12 Q So just so the record is clear, you haven't  
13 reviewed any objective evidence of harassment, such as  
14 HR records or personnel file performance reviews,  
15 et cetera; is that correct?

16 A That's correct.

17 Q So in your report, when you attribute any  
18 portion of her -- any portion of the causation of her  
19 psychiatric CT to hostilities at work or work  
20 conditions, you're relying strictly on assuming what the  
21 applicant is reporting are the conditions at work or the  
22 hostilities; correct?

23 A You know, it's -- it's sort of nuanced in that  
24 I'm assuming that she did, in fact, feel that there was  
25 hostility towards her. But I -- you know, I'm not able



1 to really tell you what happened at work beyond what  
2 she's saying happened at work.

3 Q And you diagnosed the applicant with  
4 adjustment disorder with mixed anxiety and depression;  
5 is that correct?

6 A That's correct.

7 Q So I want to first begin with your findings  
8 regarding causation of her psychiatric injury. And I  
9 apologize, Dr. Spencer, but I'm just -- just need  
10 clarification.

11 Do you find evidence of a psychiatric injury  
12 on an industrial basis?

13 A Yes. There is evidence that -- from her  
14 reporting and from the medical records, I believe that  
15 there was a psychiatric injury on an industrial basis.

16 Q And what percentage of her psychiatric injury  
17 is industrial?

18 A I would say a total of 90 percent.

19 Q Now, do you provide a breakdown of your -- I  
20 know that you discuss, at one point, like a 70, 20, and  
21 10 percent split. So are you just combining the 70 and  
22 20 to get the 90 percent?

23 A Yes. That was what I just did in my head.

24 Q Okay.

25 A The 70 percent kind of represented the main

1 thrust of what she described as stressful, which was --  
2 I -- I sort of summarized it as sales performance  
3 expectations, but it encompassed also the interactions  
4 with the managers that she described.

5 Q Okay. So 90 percent industrial. And what  
6 percentage of her psychiatric injury would you say, from  
7 the 90 percent, is due to -- I guess strike that. Let  
8 me rephrase the question.

9 So 90 percent industrial; 10 percent  
10 nonindustrial; correct?

11 A Yes, that's correct.

12 Q Okay. So I'm going to, at this point, just  
13 kind of try to break down the 90 percent into distinct  
14 factors, whether it be nonindustrial, industrial that  
15 make up the 90 percent and the 10 percent.

16 So of that 90 percent, you said 70 percent --  
17 and I'm just going to flip to that part of your  
18 report -- you said, "Occupational stressors related to  
19 sales performance expectations prior to November 2018.  
20 This percentage reflects the sustained complaints the  
21 applicant made about sales expectations over a number of  
22 years."

23 So this is all before November 2018?

24 A Okay. I -- yeah, I see that's sort of a  
25 source of confusion.

1           Let me kind of walk through that because I may  
2 have stated that incorrectly.

3           Well, so I think one of the things that came  
4 out in the course of not only our discussion but my  
5 reading all the records was that she had had many years  
6 of complaints about stress and stress-related symptoms.

7           So I may have been -- I think I was  
8 conceptualizing it as something that existed at the time  
9 of the -- start of the date. So this was pled as 2018,  
10 mid 2018, November 2018 forward.

11           So there was -- I felt that there was  
12 something that had caused her to already have that  
13 condition. And then there was a worsening, and I don't  
14 think I gave a percentage for the worsening after  
15 November 2018.

16           But that was also noted there on page 21.

17           Q     I'm just going to flip to page 21.

18           A     She had -- the reason was that this all kind  
19 of culminated in an initial psychiatric evaluation at  
20 Kaiser in December of 2017.

21           Q     Okay. So throughout -- throughout your  
22 report, you indicate -- and correct me if I'm wrong --  
23 but my understanding is you state that "she has an  
24 underlying psychiatric condition that was exacerbated of  
25 the stress-related conditions that were subsequent to

1 November 2018."

2           So I -- I just want to make sure I'm  
3 understanding what you mean by that. Are you saying  
4 that she has a preexisting psychiatric condition that  
5 was aggravated as a result of the industrial events  
6 beginning November 2018 through May of 2019?

7           A     I did frame it that way.

8           And I -- just to be clear, though, the -- the  
9 underlying or preexisting condition, if you look back on  
10 it and her history and the medical records, it seems to  
11 me like -- so if you had just kind of pulled -- wound  
12 the dates of the claim back ten years, this would have  
13 kind of started from nothing, basically.

14           So relative to the dates, there seems to be a  
15 preexisting condition. But I think the reality is that  
16 was, like, a stress-related, work-related condition that  
17 she developed. But just from the perspective of the  
18 dates of the claim, it was preexisting.

19           Q     Well, isn't -- isn't the applicant  
20 consistently reporting, with her industrial physicians,  
21 Dr. Curtis, Dr. Windman, when she was evaluated by you,  
22 that the hostilities caused by her supervisor by the  
23 name of Kathy Ware, that's what led to her current  
24 condition?

25           A     That -- that was kind of the initial way that

12

1 she described it. That she -- you know, when I was  
2 asking -- with her, asking her what was going on during  
3 these dates, you know, the problems, she related it to  
4 this transfer to the West LA branch.

5 But then when you go back and, like, "Well,  
6 how was your experience before? How were you doing  
7 before?" there were all these other kind of experiences  
8 at other locations that she developed.

9 So there was a worsening. But I think to say  
10 all of the problems were caused by just the events that  
11 happened at this branch isn't really consistent with  
12 what had previously been documented.

13 Q Okay. So what I really want to focus on is  
14 just a breakdown of separate and distinct events,  
15 whether it be work related or not, that led to her  
16 condition that's been ongoing and the cause for her  
17 current disability now.

18 So if the November 2018 hostilities worsened  
19 the condition, by what percentage did they worsen the  
20 condition?

21 A Okay. And I think I may have provided an  
22 answer to that when I looked at the report again. Let  
23 me just fold this screen over and try to find it. Okay.

24 When I wrote about apportionment on page 23, I  
25 was looking to try to understand what her GAF may have

1 been before the onset of the dates of this claim. And  
2 I -- to try to assess that, I looked at the December  
3 2017 report at Kaiser.

4           And that report actually did not give a GAF,  
5 but I felt that, based on what was described, she had a  
6 GAF of approximately 65 at the time of that  
7 December 2017 report. And then I found that her GAF was  
8 55. So the decrease of GAF of ten points appeared to be  
9 most -- appeared to be related to the accumulation of  
10 events that happened after November 2018.

11           And then we can get into what those events  
12 were in more detail.

13           Q     Well, I understand, you know, the decrease in  
14 her GAF score with respect to apportionment of her  
15 permanent disability. But I'm only focused on  
16 causation.

17           So in order for the psychiatric condition to  
18 be industrial, she has to satisfy at least 51 percent  
19 industrial causation; correct?

20           A     That's correct.

21           Q     Okay. So, so far, you find 90 percent of that  
22 industrial. And part of that 90 percent is due to  
23 events after November 2018 and part before. So what  
24 percentage was caused by the exacerbation in November of  
25 2018?

1           A     Okay.  So I'll just need a second to kind of  
2 think that through and arrive at a number rather than  
3 just kind of guessing at something.

4                     If we're looking at what was the kind of cause  
5 of that -- that sort of decrease in GAF -- and I know  
6 that's a measurement of impairment as opposed to kind of  
7 causation -- but I would also think about that as  
8 reflecting as psychiatric injury or at least the  
9 development or worsening of some psychiatric condition.

10                    I would say that all of that was related to  
11 the work experiences that she described, the problems  
12 with the supervisor, her sense of having these  
13 expectations that she couldn't meet.

14                    And she had this -- this kind of background  
15 anxiety and stress and somatization that was documented  
16 in the records for many years, but it had not gotten to  
17 the point where she was having panic attacks, needing to  
18 go the emergency room, and worsening neurological  
19 symptoms that were described by her doctor.

20                    So that -- in that context, there was an  
21 increase in symptoms, and the history that she provided  
22 was only of work-related stress.

23                    Q     So then if you -- so if you had to break down  
24 the 90 percent to -- okay.  Rather than starting from  
25 the middle, I'll just begin from 2008 when the records

1 first date back.

2           So in your review of the records in 2008,  
3 there is documented stress; correct?

4           A     That's my understanding, yes.

5           Q     Now, is there a description in the Kaiser  
6 records or documentation as to the source of that  
7 stress?

8           A     My recollection was that there actually was an  
9 association to her stress. And let me see if I pulled  
10 that out. The --

11           I have found maybe as early as February 27 of  
12 2013 -- was that a neurology consultation -- Eileen  
13 Bardolph, where she described work stress.

14           Q     The records from Kaiser document stress as  
15 early as 2008. So five years before 2013, the visit  
16 that you're referencing; correct?

17           A     Yes. And I believe that I didn't see any  
18 specific description of the stress in those earlier  
19 records. They were kind of nonspecific, so it was also  
20 something -- it was also kind of a sense I got from the  
21 applicant's own history of -- of work stress to fill in  
22 the gaps there.

23           Q     So is it fair to say that there is documented  
24 stress in the Kaiser records as early as 2008 but you  
25 don't know -- as far as within the medical records, not



1 what applicant's told you -- the source of that stress  
2 until about 2013?

3 A That's my understanding currently. I mean,  
4 it's possible that, you know, if I go through again,  
5 page by page, specifically looking for that, I might  
6 find something.

7 But, you know, based on the -- you know, the  
8 summary and what my understanding of reading through  
9 them was, it wasn't specified until 2013. At least with  
10 regard to what she was -- what her doctors were  
11 documenting.

12 Q So did you consider -- since it wasn't  
13 specified, did you consider any other source of the  
14 stress other than work?

15 A The other main source of stress was this kind  
16 of issue with her husband that surfaced from time to  
17 time in the records, which was associated with some --  
18 there was some marital infidelity kind of remotely. I  
19 think that was 2004.

20 And on this issue, the applicant was -- you  
21 know, I don't think gave me too many details about the  
22 past. But it sounded like there was marital counseling.  
23 He had problems drinking. So I really considered the  
24 home situation as the main nonindustrial source of  
25 stress.

1           But there was limited information about that.  
2 It did seem to be something that was active at least for  
3 a period of time when she was also working.

4           Q     Well, did you consider the fact that, in 2008,  
5 the Kaiser records indicate that she stressed due to new  
6 home?

7           A     Is there -- is there something you're kind of  
8 particularly referring to?

9           Q     Yeah. Let me -- I'm just looking for the date  
10 of service within the Kaiser records.

11          MS. FOLEY: Counsel, I apologize. Can you please  
12 repeat for me, she was stressed due to new what?

13          MS. MIRZAKHANYAN: Home.

14 BY MS. MIRZAKHANYAN:

15          Q     Okay. So I'm going to have to open the Kaiser  
16 records in order to provide the specific --

17          A     Yeah. If there was a date, then I can --

18          Q     Let me just pull that --

19          A     I don't recall whether she had moved or had  
20 any people in her living arrangement around the time of  
21 dates of claim.

22          Q     Well, she did tell you that from, January 2002  
23 through September 2007 and October 2015 through  
24 March 2018, she relocated to Florida. So if the records  
25 begin in 2008, that means she had just moved back from

18

1 Florida.

2 A Yes. There was that -- that was kind of an  
3 area where things were a little hazy because there were  
4 all of this -- there were several years where she was in  
5 Florida and we didn't have any records from whatever she  
6 was doing in Florida.

7 You know, I think the records -- you know, the  
8 records gave me the impression that she wanted to return  
9 to California, that there was something with her family  
10 still being here, but she was in Florida. And my sense  
11 of it is that -- I didn't get a strong sense that  
12 anything particularly difficult happened in Florida  
13 while she was working.

14 Q So it's like 6,000 pages of records, so it's  
15 taking a second to load.

16 Well, I mean, I want to get to her period in  
17 Florida. But since you raised that point, don't the  
18 records indicate that she was stressed due to the  
19 constant flying back and forth from Florida to  
20 California?

21 A I -- I don't know if that's something you're  
22 kind of specifically reading. You know, it's -- it's  
23 possible if -- I don't recall. I don't think she really  
24 raised that issue so much as -- at least in her  
25 narrative.

1 Q So in the Kaiser records from the visit date  
2 October 21st, 2008 -- and I'm reading exactly as I see  
3 it under social documentation as of October 21, 2008. A  
4 lot of stress, dash, has new home.

5 A Uh-huh.

6 Q And this would have been the time when she  
7 moved back to California because she did not have Kaiser  
8 in Florida. So if the visits begin in 2008, it's  
9 because she was able to get treatment and coverage  
10 through Kaiser. So the new home that she's referencing  
11 is home in California.

12 So my question to you is: You indicate that  
13 there's no specific reference to work stress in the  
14 earlier periods, but there is at least one reference to  
15 home stress and a move from one state to the other;  
16 correct?

17 A Yeah. I would agree that that's -- that's  
18 referenced.

19 Q And then, early on in the -- starting from  
20 2008, she is seen for hypothyroid; correct?

21 A 2008 -- I'll be there in a minute. I just --  
22 she -- yes. She had hypothyroidism. Looks like that  
23 was beginning in 2011 is when it was documented.

24 Yeah, I see that.

25 Q And the symptoms that she's consistently

1 reported while getting treatment and on medication for  
2 the hypothyroid is her dry patches, the weight gain,  
3 inability to lose weight, rashes, fatigue. Let's see.  
4 The sexual dysfunction.

5 I mean, did you -- did you find evidence of  
6 those symptoms in connection to her treatment with the  
7 hypothyroid?

8 A I note she had a lot of these skin-related  
9 complaints, which certainly can happen with  
10 hypothyroidism, although it might -- you know, my  
11 impression, not being a specialist in this area, was  
12 that they were kind of sufficiently -- excuse me --  
13 significant that -- that she was actually treated for  
14 the skin problems.

15 I -- you know, she was on medication, and it  
16 appeared to be pretty well controlled. So I did not  
17 have the strongest sense that she was -- you know,  
18 sometimes people will present looking depressed, looking  
19 run down with hypothyroidism if it's not treated or  
20 hasn't yet been diagnosed.

21 But I didn't get the sense that that was  
22 really a big part of her presentation.

23 Q Okay. Didn't your review of her Kaiser  
24 records reveal that she's constantly going back since  
25 the thyroid medication isn't working and so they're

1 adjusting it between her thyroid medication and her need  
2 for birth control to balance out the symptoms that she's  
3 experiencing such as the hair loss, the uncontrolled  
4 bleeding, her fatigue, et cetera?

5 A Well, I -- I see that. I don't know that I  
6 have -- you know, can say for sure what the thyroid  
7 treatment really looked like.

8 The issue -- the bigger issue with her medical  
9 records is that she's going in all the time with  
10 different kinds of -- kind of symptomatic anxieties and  
11 complaints. So it created the impression to me, reading  
12 them as a psychiatrist, that this is a person who has a  
13 high level of anxiety.

14 Q But the reason why I'm focused on the  
15 hypothyroid is because there's a period of time where we  
16 know, from 2008 until, according to your record review,  
17 2013 --

18 So a five-year period where we have documented  
19 stress, documented symptoms of hair loss, skin  
20 conditions associated with the stress, weight gain,  
21 inability to lose weight, sleep problems, you know, some  
22 of the physical pain that she's described, such as with  
23 her hands and her neck, et cetera.

24 So my point bringing all this up is there's no  
25 specific reference to work stress early on, but there is

1 reference to stress and, during the same visits,  
2 symptoms and issues related to particular medical  
3 conditions, such as the hypothyroid.

4           So is it plausible that the stress is related  
5 to the symptoms or the conditions for why she's being  
6 seen or treated for on a particular date before 2013?

7           A     It's certainly not out of the realm of  
8 possibility that she might have had some anxiety that  
9 was around these medical problems and been kind of  
10 focused on them and doing a lot of self-monitoring and  
11 felt stressed about that. You know, I -- I don't -- I  
12 wouldn't say I got any history about that from her to  
13 kind of relate back to this, but it's not out of the  
14 realm of possibility.

15           Q     I mean, didn't your record review reveal that  
16 she -- her hair loss is something that stresses her out,  
17 which started after she had her second child?

18           A     Well, yes. I mean, I see that she was kind  
19 of, at the time, worried about that and sort of  
20 continued to be worried about it. And she did seem to  
21 be a very somatically anxious person.

22                     You see these patients sometimes who are  
23 constantly self-monitoring and are very alert to any  
24 changes that happen, you know. But the thing is, at the  
25 same time, we were kind of talking about that early

1 2008 -- early 2009 through 2012, you know, I also got  
2 the history that she was having problems at the  
3 Hawthorne branch with this other kind of manager.

4           So, you know, the issue is trying to go back  
5 and understand what she might have been worried about 12  
6 years ago. You know, it's possible that somatic  
7 anxieties might have played some role in that. There  
8 was some history related to work at the time.

9           You know, so certainly a lot that was I think  
10 going on simultaneously. And she also really seemed  
11 like a person who was very focused on her work, and,  
12 like, work was a big part of her life and her kind of  
13 sense of herself.

14           Q     Well, the -- the issues with her manager, that  
15 was in 2012. So I'm talking about 2000 -- from 2008  
16 until the 2012 -- I mean, that's a four-year period  
17 where you have documented stress but no direct  
18 correlation connecting the stress with her work for a  
19 four-year period at the very least; is that correct?

20           A     Well, the only thing I would add to that,  
21 though, is, looking back, I -- it looks like I got the  
22 history on page 6 that she described high sales  
23 performance expectations from 2009 to 2012.

24           You know, whether -- so I don't know whether  
25 you have records that say, actually, that was not when



1 she was with that particular supervisor and her  
2 recollection is incorrect. But that's just what she  
3 kind of told me.

4           So, you know, it sort of supported I think the  
5 idea that she had been under -- she was a person who  
6 experienced a lot of work-related anxiety for much of  
7 her career.

8           Q     Well, do you agree it's important to  
9 understand what events of work led to these anxieties  
10 and what events in her personal life led to these  
11 anxieties?

12          A     I think that's important.

13          Q     Okay. So -- and there are so many moving  
14 factors here, so many -- 6,000 pages of records that you  
15 reviewed. So I understand there is a lot of information  
16 and a lot of moving parts. So I just need your help  
17 with dissecting it.

18                 And the first period of time where we have  
19 documented stress begins in 2008. So that's why I'm,  
20 rather than working backwards, just working from 2008  
21 until the present. So -- so before --

22                 Going back to your 90 percent, from that  
23 90 percent, you said there was a part that was before  
24 November 2018; a part of it was compromised of the  
25 events after November 2018; correct?

1           A     Yeah.  So, I mean, we can look at that.  We  
2 can kind of break it down.  And I think you'll have to  
3 be patient with me because I tend to kind of ramble and  
4 have a hard time getting to the point in these  
5 depositions.

6                     So -- but I think we can kind of think  
7 about -- think about it all sort of from the beginning,  
8 as you say.  So I think you're kind of trying to get at  
9 all the different factors during that pre-2018 period  
10 that may have been stressful to the applicant.

11                    You know, is that kind of where your inquiry  
12 is?

13           Q     Yes.  And, also, what specific events of work?

14                    Because there -- whether they're actually  
15 events of employment, whether they're -- it's personnel  
16 action and then deferred to a trier of fact, it's  
17 important to understand what specifically -- rather than  
18 just grouping it all together -- well, there was work  
19 stress.

20                    So if you don't mind, I can -- I have a few  
21 factors that I want to know if they were considered and  
22 what percentage, if so.  If you want to jot it down, and  
23 then you can give me a narrative rather than --

24           A     That would kind of be helpful if you --

25           Q     Okay.

1           A     -- tell me what you are thinking about, and  
2 then I can consider it all.

3           Q     So you see where I'm going with it? And  
4 hopefully it will make more sense.

5                     Okay. So in -- in -- before 2018, we know  
6 that there are periods where applicant complains about  
7 her work volume. There's also issues with management in  
8 2012 with respect to how she was treated that caused her  
9 stress. And there is also a stress claim she had in  
10 2012 that, according to her, remained unresolved.

11          A     May I interrupt you there?

12          Q     Sure.

13          A     Is that a Workers' Comp claim?

14          Q     Well, according to her, she -- it could have  
15 been a long-term or short-term disability claim, and  
16 it's in the initial report of Dr. Windman, dated  
17 October 8th, 2019, and -- October 7th, 2019. And you  
18 actually reviewed that.

19                     So if you want to --

20          A     Let me see. Bank robberies, work, stress case  
21 in 2012.

22           MS. FOLEY: Is there any page of the report that  
23 you can refer us to? I'm asking Counsel.

24           THE WITNESS: I see it on page 83.

25           MS. FOLEY: What page?

1 THE WITNESS: 83.

2 So, you know, I see that. You know, I see  
3 that in there. You know, my understanding from talking  
4 with her was that she did not have prior cases or -- or  
5 short-term disability. I think I just got the history  
6 that she had work stress during that period.

7 BY MS. MIRZAKHANYAN:

8 Q Okay. So -- so it's your understanding that,  
9 before November 2018 or before she first went on  
10 disability leave in March of 2019, applicant had never  
11 been on any period of a leave of absence due to stress?

12 A You know, that was my -- that was my  
13 understanding. You know, I guess I'm agnostic as to  
14 whether she ever took any time off because of the stress  
15 previously.

16 But at least when -- I always ask, "Have you  
17 had any Workers' Compensation claims before?" and my  
18 understanding was the answer was no. So I -- I don't --  
19 I guess I can't give you any more information about the  
20 2012 situation.

21 Q Well, would you agree that taking time off  
22 from work due to stress is entirely different than being  
23 placed on disability by a doctor and getting treatment  
24 from a doctor and getting disability payments from  
25 either an insurance company or the state or your

28

1 employer?

2 A I would say that's totally different. The  
3 first can lead to the next, but, you know, taking a day  
4 off work as a mental health day here and there is not  
5 really indicating significant problems on disability.

6 Q So what if you just learned that she's been on  
7 a leave of absence for multiple periods stemming -- you  
8 know, from one month to a couple months at the very  
9 least, due to psychiatric treatment or her need for  
10 stress leave?

11 So I'm talking about multiple periods before  
12 March 2019, before November 2018, as early as 2012,  
13 where she was on a disability leave due to psychiatric  
14 conditions and issues?

15 A I mean, if you're telling me that's actually  
16 the history as, you know, recorded, then what -- you  
17 know, I would be kind of inclined to say this is a  
18 person who is fairly psychiatrically maybe frail.

19 You know, it sounded like she was in these  
20 jobs where she had responsibilities as a manager, and  
21 she had frequent problems with them. So if you were to  
22 go back and say, in 2012, she had the same job and she  
23 had the same problems, I would find that very  
24 believable.

25 You know, it seems like she's kind of in a

1 THE WITNESS: 83.

2 So, you know, I see that. You know, I see  
3 that in there. You know, my understanding from talking  
4 with her was that she did not have prior cases or -- or  
5 short-term disability. I think I just got the history  
6 that she had work stress during that period.

7 BY MS. MIRZAKHANYAN:

8 Q Okay. So -- so it's your understanding that,  
9 before November 2018 or before she first went on  
10 disability leave in March of 2019, applicant had never  
11 been on any period of a leave of absence due to stress?

12 A You know, that was my -- that was my  
13 understanding. You know, I guess I'm agnostic as to  
14 whether she ever took any time off because of the stress  
15 previously.

16 But at least when -- I always ask, "Have you  
17 had any Workers' Compensation claims before?" and my  
18 understanding was the answer was no. So I -- I don't --  
19 I guess I can't give you any more information about the  
20 2012 situation.

21 Q Well, would you agree that taking time off  
22 from work due to stress is entirely different than being  
23 placed on disability by a doctor and getting treatment  
24 from a doctor and getting disability payments from  
25 either an insurance company or the state or your

1 employer?

2           A     I would say that's totally different. The  
3 first can lead to the next, but, you know, taking a day  
4 off work as a mental health day here and there is not  
5 really indicating significant problems on disability.

6           Q     So what if you just learned that she's been on  
7 a leave of absence for multiple periods stemming -- you  
8 know, from one month to a couple months at the very  
9 least, due to psychiatric treatment or her need for  
10 stress leave?

11                    So I'm talking about multiple periods before  
12 March 2019, before November 2018, as early as 2012,  
13 where she was on a disability leave due to psychiatric  
14 conditions and issues?

15           A     I mean, if you're telling me that's actually  
16 the history as, you know, recorded, then what -- you  
17 know, I would be kind of inclined to say this is a  
18 person who is fairly psychiatrically maybe frail.

19                    You know, it sounded like she was in these  
20 jobs where she had responsibilities as a manager, and  
21 she had frequent problems with them. So if you were to  
22 go back and say, in 2012, she had the same job and she  
23 had the same problems, I would find that very  
24 believable.

25                    You know, it seems like she's kind of in a

1 position that her kind of temperamental issues is what  
2 she has trouble with. You know, so it would kind of  
3 suggest that this is an ongoing thing that she's quite  
4 vulnerable to.

5 Q Yeah. But you -- you keep attributing the  
6 vulnerability to work. Well, what about the fact that  
7 she was on a disability leave in 2018, early 2018,  
8 before she moved back to California because she couldn't  
9 handle all the flying back and forth from Florida to  
10 California?

11 MS. FOLEY: Objection. You are providing reason.  
12 You assume that she was stressed because of the flying,  
13 but it's not a fact. It's your assumption.

14 MS. MIRZAKHANYAN: No. I'm taking that directly  
15 from the Kaiser records.

16 MS. FOLEY: I don't see those records.

17 THE WITNESS: You know, I mean, if you're asking  
18 what -- what would the significance of that be, I --

19 (Audio distortion.)

20 THE REPORTER: I couldn't hear your answer, Doctor.

21 THE WITNESS: I was saying that I did not find that  
22 that really jumped out with the report -- yeah. I was  
23 thinking -- I was saying that I did not see that that  
24 really surfaced in the reports that she was on extended  
25 disability because of flying back and forth.



1 BY MS. MIRZAKHANYAN:

2 Q That's not what I'm asking, Doctor. That's  
3 not what I said. I didn't say she was on extended  
4 disability.

5 And I'm quoting from page 54 of your record  
6 review for date of service, December 2017.

7 A On the intake.

8 Q "Her husband and children -- two children  
9 moved to California first, but she was stuck in Florida  
10 since she had not been able to find a job transfer  
11 within Chase. This had caused some marital issues. She  
12 had been feeling overwhelmed by taking care of her  
13 elderly parents as well."

14 "She felt that her parents and siblings had  
15 been distancing themselves from her, regardless of her  
16 efforts to support them, which also distressed her. Her  
17 depressive symptoms started getting worse since  
18 June 2017 due to increased troubles at work. She was  
19 experiencing severe somatic symptoms at work and decided  
20 to take a short-term disability and leave of absence."

21 So -- so would you agree that, at least in  
22 2017, the documented stress is not just related to work?  
23 It's related to taking care of her family and the fact  
24 that her dad had multiple strokes and she was  
25 responsible for taking care of him and the fact that,

31

1 every six to eight weeks for at least two years, she is  
2 constantly flying from California to Florida and vice  
3 versa to visit her family, her kids.

4           So would you agree that there are other events  
5 in her life that are causing her stress, documented in  
6 the Kaiser records, that are not related to work?

7           A     Yes, I would agree with that. At least as of  
8 December 2017, she -- she did mention those other  
9 stressors.

10          Q     So pages 53 and 54 of your record review,  
11 Kaiser visit 12 -- or December 14, 2017, it -- and I'm  
12 quoting directly from your report.

13                     "Her stress was mostly related to living in  
14 Florida for work while her husband and children were  
15 living in California. She had been trying to obtain a  
16 transfer from Florida to California for two years."

17                     "She visited with her family every six to  
18 eight weeks. Moreover, her current position required  
19 extensive traveling by cars to different locations, and  
20 the job itself was very stressful. Her pain and  
21 exhaustion recently became significantly worsened,  
22 resulting in a need to request a medical leave of  
23 absence."

24                     So her stress was mostly related to living in  
25 Florida for work while her husband and children were

1 living in California. So the period of time where you  
2 see this increase in need for treatment, psychotropic  
3 medications in 2017, a primary source of that stress is  
4 the long distance; correct?

5 A Well, yeah. It looks like, at that time, that  
6 that's sort of what was happening. And I don't -- you  
7 know, I don't have any other records, for example, from  
8 the time she was in Florida. So -- so, yes, I think I  
9 would agree that the records do support that there's  
10 this non-work-related stress, you know, a fair amount of  
11 it, before the 2018.

12 Q And on page 52, December 13, 2017, "the  
13 applicant specifically states she's experiencing stress  
14 due to work and family. She was interested in psych  
15 services."

16 A Yes.

17 Q So when there is clear evidence of  
18 work-related issues that were stressing her out as well  
19 as non-work-related issues that were stressing her out,  
20 why did you only attribute the cause of her stress due  
21 to her work-related conditions?

22 A And now you're asking about the -- you're  
23 asking about the 70 percent.

24 Q Yeah. Leading up to the -- because you --  
25 okay. So the bigger umbrella, the bigger picture, I got

1 from you in the beginning was you have 90 percent work  
2 stress; 10 percent non.

3 From that 90 percent, some of it is  
4 pre-November 2018; but a majority is from the events  
5 after November 2018; correct?

6 A Yeah --

7 Q And let me know if I misunderstood you, but --

8 A I would say that. And we'll have to break  
9 down the, you know -- the -- the 90 percent, you know, a  
10 little bit more specifically. And I apologize.

11 But -- but, yes. Certainly there were  
12 stressors before and stressors after that date. After  
13 talking to the applicant and -- you know, I understand  
14 this is kind of already the focus of my evaluation with  
15 her -- but she focused a lot on the work problems.

16 There's kind of a whole narrative from the way  
17 she's treated at work and it kind of occurs across  
18 different places and with different people, and she  
19 seemed very kind of preoccupied with it and focused on  
20 it.

21 So I come away from meeting with her with, you  
22 know, this strong sense that work is what's bothering  
23 her and that other things happened in her life. And of  
24 course other things happen in everybody's life. But she  
25 kind of describes those as being less of an issue.

1           So, you know, this is how I'm trying to weigh  
2 the different factors here. You know, on the flip side  
3 is, if somebody spends two hours talking to me about  
4 work and I say, "Well, I don't think it was work at  
5 all," you know, that's a little harder -- you know, it's  
6 hard to kind of, you know, justify.

7           So -- so, you know, certainly these -- these  
8 things kind of are in the mix, and we should find a  
9 place for them because all of these things that are  
10 stressful potentially contribute.

11           But the issue in trying to make a decision as  
12 to how much of a kind of problem does it seem at the  
13 time -- and that's never clear when a person is talking  
14 about their present issues, how they -- how they thought  
15 about something three or four years ago.

16           Q     Well, I mean, there's a -- correct me if I'm  
17 wrong, Doctor, but there's a self-interest or  
18 self-motivation in reporting to you that it was all  
19 caused from work. You said that she spent, you know,  
20 majority of the time attributing it -- attributing all  
21 the stress to work. But there is a self-interest in  
22 doing so.

23           I mean, you are evaluating her for a Workers'  
24 Compensation claim; correct?

25           A     Yeah. You know, of course that does play into

1 how she may present the issues.

2 Q So the -- the reason I'm bringing up all the  
3 other issues raised in the medical records is because,  
4 in the beginning of the deposition, you said that you  
5 corroborated what she had told you with the medical  
6 records and the medical evidence.

7 So I'm just pointing to certain aspects of the  
8 medical records that I don't believe were addressed or  
9 considered. I mean, there's -- I didn't see specific  
10 reference, for example, with any documented stressors  
11 other than the reference to the marital issues in 2004.

12 But you don't -- I didn't see anything about  
13 the family history of psychiatric issues. I mean, she  
14 says that her mom, her sister, and her brother both  
15 have -- all three have anxiety. Depression from dad.

16 So I'm just raising some of the other concerns  
17 that were unrelated to work that are also documented in  
18 the records that I don't see discussed in your report.

19 So -- and there's also -- a big concern that I  
20 have is you group -- you group everything that happened  
21 at work into just one category. She's specific that  
22 there -- part of it is due to robberies, part of it is  
23 due to stress from management in 2012, part of it is due  
24 to increased workload.

25 A significant part in 2019 is due to her

1 commute, where she is -- several entries in the Kaiser  
2 records and with her therapist in 2019 where her issue  
3 is the fact that she has to commute for three hours and  
4 she can't tend to her kids.

5           So what I don't see in your report is a  
6 breakdown of, "Well, what percentage is due to the fact  
7 that she had increased volume of work? What part is due  
8 to the hostilities? What percentage is due to the fact  
9 that she didn't like the three-hour commute to and from  
10 work?"

11           Because some of those factors are industrial;  
12 some are not; correct? Or actual events of employment  
13 and not. Some would be part of a good faith personnel  
14 action defense; others would not.

15           So that's why a breakdown of all the events  
16 and what percentage you can attribute to each event is  
17 really important.

18           So I cannot believe that it's -- the hour is  
19 already past.

20           A     These are -- these do get quite complicated.

21           You know, one of the issues that's always also  
22 hard is trying to come up with these numbers. And how I  
23 would at least think about trying to break this down  
24 further is try to go back and say, "Okay. As of  
25 December 2017, for example, what is she describing?"

1 What are the problems? What are her, like, level of  
2 symptoms?"

3 And probably, at that time, the main thing  
4 she's describing are these kind of non-work-related  
5 factors. There is, like, a more remote history. So I  
6 kind of have to think about, "How can I get a sense of  
7 how symptomatic she was at that time?" and -- and try to  
8 understand that.

9 And that may be something that can be done.  
10 Again, you know, I think I would do better writing this  
11 out.

12 Q I -- I recommend that it be written out as  
13 well. I really assumed that we weren't going to  
14 accomplish much of anything during this depo. I just  
15 wanted the opportunity to raise some of these concerns  
16 and ask whether you would consider preparing a  
17 supplemental report in response to an interrogatory.  
18 So --

19 A Okay. I'm sorry you feel that we weren't  
20 going to accomplish anything.

21 Q No. Well, because I just felt like it was way  
22 too much to cover in an hour.

23 A Yeah. You know what also -- I mean, if you  
24 wanted to flesh it out, if there are any records from  
25 Florida that can be retrieved, you know, that -- there



1 you have at least some kind of some evidence of how she  
2 was doing at that time and, you know, how anxious she  
3 may have been over that whole period. Understanding  
4 those may not be available.

5 But I can break it down further and think  
6 about -- think about these issues and try to -- to get a  
7 little more in depth.

8 Q So are you willing to prepare a supplemental  
9 report addressing an interrogatory by the defendant if I  
10 lay out all of the -- all of the factors, whether it be  
11 industrial, nonindustrial, personnel, or actual events  
12 of employment, and ask you to consider it and just  
13 prepare a report on whether or not, you know, some of  
14 those factors or a combination thereof make up  
15 industrial component of her claim versus nonindustrial?

16 So I would actually present you with all the  
17 information that I have, with a direct citation to where  
18 I got that information, and if you can just address it  
19 in a supplemental and obviously address any other issues  
20 you feel are relevant too.

21 A Yeah. I'm happy to do that. Also, did -- if  
22 the applicant ever was deposed, I don't think that was  
23 included.

24 Q She was deposed, and the deposition  
25 transcripts -- I'm surprised they were not included.

1 But I'll definitely include them. That's not a problem.

2 A Yeah. Okay.

3 MS. MIRZAKHANYAN: Counsel, do you have an  
4 objection to --

5 MS. FOLEY: I have no objection, but I have some  
6 questions.

7 MS. MIRZAKHANYAN: Okay. So then do you want to  
8 continue to a Volume II?

9 MS. FOLEY: Do we have, like, five minutes so I can  
10 ask my questions?

11 THE WITNESS: I am able to stay.

12 MS. MIRZAKHANYAN: It's not that I have an  
13 objection to your questions. I'm just not done with my  
14 questions.

15 MS. FOLEY: So if you continue, then I'll reserve  
16 my questions for the next volume.

17 MS. MIRZAKHANYAN: So I only have it -- I only have  
18 the depo scheduled for an hour. If you don't mind, we  
19 reserve our right to a Volume II.

20 MS. FOLEY: If you ask me, of course I don't mind.

21 MS. MIRZAKHANYAN: If -- if you don't have an  
22 objection, then I'd rather just defer all questions  
23 until the doctor is given an opportunity to prepare a  
24 supplemental report breaking down his findings. And  
25 then, after that, we can --

1 MS. FOLEY: Yeah. But I'll send my request for  
2 supplemental because I should be able to ask my  
3 questions before the supplemental report is prepared.

4 MS. MIRZAKHANYAN: Of course. I have no objection  
5 to you -- we can each provide our own if you want and  
6 have the doctor address your questions and my questions  
7 in one report but the requests go out separately.

8 MS. FOLEY: I think that would be fair.

9 MS. MIRZAKHANYAN: Okay. Counsel, do you want to  
10 agree that we serve the doctor within the next 20 days?

11 MS. FOLEY: Yes. I will agree to do that.

12 MS. MIRZAKHANYAN: So, Doctor --

13 MS. FOLEY: My only question is that -- Doctor, you  
14 didn't have a chance to review the deposition  
15 transcript?

16 THE WITNESS: That's correct. I didn't.

17 MS. FOLEY: So, Counsel, would you agree that we'll  
18 provide the deposition transcript?

19 MS. MIRZAKHANYAN: Of course. Yeah.

20 MS. FOLEY: Yeah. Okay.

21 MS. MIRZAKHANYAN: And every entry that I reference  
22 in my interrogatory, even if it's been previously  
23 served, I will include it. So -- and I will definitely,  
24 Counsel, send you a copy before it goes out to the  
25 doctor.

1 MS. FOLEY: Sure.

2 MS. MIRZAKHANYAN: So, Doctor, applicant's counsel  
3 and I have agreed that each party will serve you with a  
4 separate request, but you can combine the requests into  
5 a single report if you prefer, or you can provide two  
6 written reports. That's up to you. And we will get  
7 that to you within the next 20 days.

8 THE WITNESS: Okay. I will look out for that.

9 MS. MIRZAKHANYAN: Okay. And applicant's counsel  
10 and I agree to reserve the right to reschedule this  
11 deposition to a Volume II, to resume after you've had  
12 the opportunity to prepare a supplemental report.

13 Is that correct, Counsel?

14 MS. FOLEY: Yes.

15 MS. MIRZAKHANYAN: And can we stipulate to relieve  
16 the court reporter per Code?

17 MS. FOLEY: So stipulated.

18 MS. MIRZAKHANYAN: Doctor, do you want to waive  
19 signature?

20 THE WITNESS: Yes.

21 MS. MIRZAKHANYAN: Okay. No further questions.

22

23 (Video Conference Deposition

24 concluded at 11:09 A.M.)

25

1 State of California )  
2 County of \_\_\_\_\_ ) SS.

3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I, Edward Spencer, M.D., say I have read the foregoing video conference deposition and declare under penalty of perjury that my answers as indicated are true and correct.

\_\_\_\_\_  
(DATE)

\_\_\_\_\_  
(SIGNATURE)

1 State of California )  
2 County of San Bernardino) SS.

3

4 I, MELINDA WOMELSDORF, Certified Shorthand  
5 Reporter, License No. 13124, for the State of  
6 California, do hereby certify:

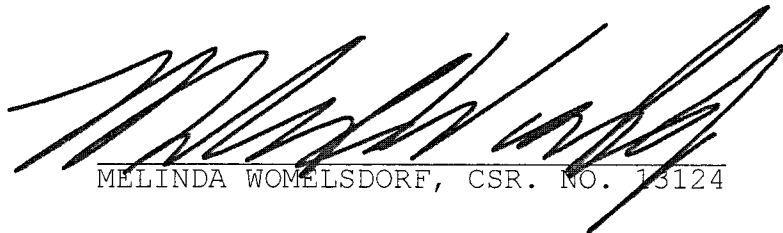
7 That, prior to being examined, the witness  
8 named in the foregoing video conference deposition, to  
9 wit, Edward Spencer, M.D., was by me duly sworn to  
10 testify the truth, the whole truth and nothing but the  
11 truth;

12 That said video conference deposition was  
13 taken down by me in shorthand at the time and place  
14 therein named and thereafter reduced to computer-aided  
15 transcription under my direction;

16 That the foregoing transcript, as typed, is  
17 a true record of the said proceedings.

18 I further certify that I am not interested  
19 in the event of the action.

20 Witness my hand this 18th day of December,  
21 2020.

22   
23 MELINDA WOMELSDORF, CSR. NO. 13124  
24  
25