

STATE OF CALIFORNIA  
Division of Workers' Compensation  
Workers' Compensation Appeals Board

Case No. ADJ7825208

**EDEE MARISELLI,**

*Applicant,*

vs.

**UNIVERSAL BANK;  
INSURANCE CO OF THE WEST,**

*Defendants.*

**FINDINGS AND ORDER**

Martin Von Mizener, Esq., attorney for Applicant

Colantoni, Collins, Marren, Phillips & Tulk, by Charles S. Bentley, Esq., attorneys for Defendant

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The above entitled matter having been heard and regularly submitted, the Honorable Patricia Frisch, Workers' Compensation Judge, now finds and orders as follows:

**FINDINGS OF FACT**

1. EDEE MARISELLI born on 10-06-1961 while employed during the period 04-04-2010 through 4-4-2011 as a finance manager, occupational group number 110 at West Covina, California by UNIVERSAL BANK, sustained injury arising out of and occurring in the course of employment her psyche; however, based on Labor Code Sec. 3208.3 the injury was not predominantly caused by her employment and she is barred from any benefits. There is no indication she suffered any physical injury.

2. At the time of the injury the employer's workers' compensation carrier was INSURANCE CO. OF THE WEST.

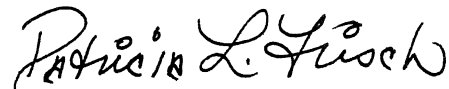
3. The court believes that the termination of the applicant was a good faith personnel action by the employer.

4. The Employment Development Department lien is disallowed because the injury is barred by Labor Code 3208.3; all other issues are moot.

**ORDER**

**IT IS ORDERED** that Applicant shall take nothing further from Defendant herein.

DATE: December 1, 2014



**Patricia Frisch**  
WORKERS' COMPENSATION JUDGE

**Service**

COLANTONI COLLINS      Law Firm, 555 CORPORATE DR STE 205 LADERA RANCH CA 92694,  
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EDEE MARISELLI         Injured Worker, 18340 YORBA LINDA BLVD. APT 107 243 YORBA LINDA  
CA 92886

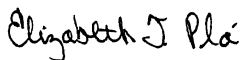
INSURANCE CO OF        Insurance Company, PO BOX 85563 SAN DIEGO CA 92186  
THE WEST SAN DIEGO

MARTIN                    Law Firm, 14420 WHITTIER BLVD WHITTIER CA 90605,  
VONMIZENER              INFO@1VONMIZENERLAWFIRM.COM  
WHITTIER

EDD SDI SANTA ANA    Lien Claimant - Other, PO BOX 1466 SANTA ANA CA 92701

**Above parties served on: December 1<sup>st</sup>, 2014**

By:



Elizabeth T. Pla

STATE OF CALIFORNIA  
**Division of Workers' Compensation**  
**Workers' Compensation Appeals Board**

**CASE NUMBER: ADJ7825208**

**EDEE MARISELLI**

**-vs.-**

**UNIVERSAL BANK;  
INSURANCE CO OF THE  
WEST,**

**WORKERS' COMPENSATION JUDGE: Patricia Frisch**

**DATE: December 1, 2014**

**OPINION ON DECISION**

Edee Mariselli, born October 6, 1961, while employed during the period April 4, 2010 through April 4, 2011, as a finance manager, occupation group 110, at West Covina, California, by Universal Bank, sustained injury arising out of and in the course of employment to her psyche; however, based on Labor Code 3208.3 the injury was not predominantly caused by her employment and she is barred from any benefits. There is no indication she suffered any physical injury.

At the time of the alleged injury the employer's worker's compensation carrier was ICW Group. The predominant issue is injury arising out of and in the course of employment. The parties furnished, basically, two doctors' opinions.

Dr. Curtis was the treating doctor but after reading the AME who was Dr. Cohen, Dr. Curtis is not considered substantial evidence. As Dr. Cohen points out Dr. Curtis' reports contain grossly inaccurate history and inadequate record review (Exhibit X, 5-14-13). On page 15 the AME actually states that the treatment Dr. Curtis provided was not the standard of care that should be provided.

The AME strongly disagreed with the drugs that were furnished to the applicant by Dr. Curtis and called his treatment a minimal, if any, benefit to the applicant. Dr. Curtis' lien was not specifically at issue at trial on November 10, 2014 however, these factors will be taken into consideration when the liens are litigated.

The court has spent many hours reading and rereading the AME reports and deposition in conjunction with the applicant's testimony. She has struggled most with the termination, if it were because her work stress causing her termination then the applicant would have met the industrial injury being the predominant factor as in Labor Code 3208.3 because the AME found causation at the time of termination to be 20% work stress, 40% pre-existing and 40% being terminated.

The applicant admitted she was fired, per her employer, because of poor performance; she told the AME that she thought she was fired so she would not file a stress claim.

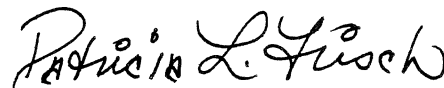
There is no indication in the records that she was terminated because their fear of her filing a claim. If there had been an indication that the company was discriminating against her on a State or Federal level there would have been actions that should have been taken; it is telling that these were not pursued. Therefore the court believes that the termination was a good faith personnel action by her employer which leaves the injury 20% industrial according to the reports of the AME and the deposition 6-12-14 in which he did not change his mind.

The court agrees with the AME on the percentages of causation. The AME found her vague on her non-industrial component yet the records showed life circumstances and treatment before and during her work stress. Again, there is no indication that her termination was not a good faith personal action, she missed no time from work prior to termination; most of the money from the bad loan was recovered (Exhibit X, 5-14-13, page 3) and she testified the bank had written off the money.

The EDD lien is disallowed because the injury is barred by Labor Code 3208.3; all other issues are moot.

The applicant takes nothing further from defendant.

DATE: December 1, 2014



**Patricia Frisch**  
WORKERS' COMPENSATION JUDGE

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