

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

**THALIA WILLIAMS, *Applicant***

**vs.**

**JB HUNT TRANSPORT INC;  
ACE AMERICAN INSURANCE, *Defendants***

**Adjudication Number: ADJ13448644  
Sacramento District Office**

**OPINION AND ORDER  
DENYING PETITION FOR  
RECONSIDERATION**

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

We have given the WCJ's credibility determination(s) great weight because the WCJ had the opportunity to observe the demeanor of the witness(es). (*Garza v. Workmen's Comp. Appeals Bd.* (1970) 3 Cal.3d 312, 318-319 [35 Cal.Comp.Cases 500].) Furthermore, we conclude there is no evidence of considerable substantiality that would warrant rejecting the WCJ's credibility determination(s). (*Id.*)

For the foregoing reasons,

**IT IS ORDERED** that the Petition for Reconsideration is **DENIED**.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ CRAIG SNELLINGS, COMMISSIONER**

**I CONCUR,**

**/s/ MARGUERITE SWEENEY, COMMISSIONER**

**/s/ KATHERINE A. ZALEWSKI, CHAIR**



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

**May 31, 2022**

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

**THALIA WILLIAMS  
PACIFIC WORKERS'  
FLOYD SKEREN MANUKIAN LANGEVIN**

**LN/abs**

I certify that I affixed the official seal of the Workers' Compensation Appeals Board to this original decision on this date. *abs*

**REPORT AND RECOMMENDATION  
ON PETITION FOR RECONSIDERATION**

1. Order issued: March 4, 2022
2. Identity of Petitioner: Defendant
3. Verification: The petition is verified
4. Timeliness: The petition is timely
5. Date Petition for  
Reconsideration filed: March 29, 2022
6. Petitioner alleges: The Court erred in finding applicant sustained an industrial injury.

Applicant alleged an industrial related injury to her left shoulder occurring on July 12, 2020. Defendant denied the injury based upon inconsistent factual allegations. The matter proceeded to trial on January 26, 2022. The Court found that applicant sustained an industrial injury based upon applicant's credible testimony and the reporting of PQME Dr. Wolfson. Defendant filed its Petition for Reconsideration based upon this finding.

Applicant testified that she injured her left shoulder when she had to manually unhitch a trailer. She pulled down on a metal handle with both hands and experienced pain in her left arm. (Summary of Evidence p.3 lines 11-13). Defendant presented several exhibits, which offered differing events as to the mechanism of injury. (Exhibits D, E, F). The Court reviewed and weighed all of the evidence and testimony and opined that applicant was a credible witness.

The finding of injury was based upon the reporting of Dr. Wolfson's reporting and applicant's testimony; both of which had the same mechanism of injury. However, Petitioner specifically notes that the Application for Adjudication provides a different history than applicant's testimony. The July 30, 2020, Application for Adjudication states that applicant was injured when she was getting out of a truck. The document is not signed by the applicant and applicant testified that she has never seen the document. She further testified that she did not tell her attorney that she was injured getting out of a truck. (Summary of Evidence p. 3 lines 24-25). Defendant argues that because applicant did not amend her application prior to trial or note "conform to proof" on the document that the Court cannot make a finding of an industrial injury since it offers a different mechanism of injury. The error on the Application appears to be one made by her attorney. Defendant's argument is form over substance.

**RECOMMENDATION**

It is recommended that the Petition be denied.

DATE: April 8, 2022

**Darcy Kosta**  
WORKERS' COMPENSATION  
ADMINISTRATIVE LAW JUDGE

## OPINION ON DECISION

Applicant alleges an industrial injury to her left shoulder occurring on July 12, 2020 while employed as a truck driver with JB Hunt Transport. Defendant factually denied the injury due to several inconsistencies in the reporting of the injury.

Applicant testified that she was injured when she had to manually unhitch a trailer from the tractor. She described that she pulled down on a handle with both hands and felt a pain in her left arm. She testified that she told the doctors that the injury occurred when she was pulling a lever. She denied telling the doctors that she was injured while carrying cargo or climbing out of her truck. She denied telling her attorney that she was injured climbing out of her truck as noted on the Application for Adjudication.

Defendant submitted exhibit F which is the 7/18/20 UC Davis emergency room report. According to the report applicant reported a left shoulder injury stating that she “pulled something at work.” On 7/21/20 JB Hunt issued an Employers First Report stating that the injury occurred when applicant was raising and lowering the landing gear. Applicant testified that this is not how the injury happened.

Applicant presented at Wellspace Health on 8/10/20. The report indicates an injury to the right arm. (Exhibit E) On 9/21/20 she was seen by Dr. Nkadi; it was reported that applicant injured her shoulder while she was trying to pull a lever to detach the trailer that was attached to the truck. Applicant returned to Wellspace on 10/16/20, it is reported that applicant injured her left arm while lifting a heavy object. On 11/30/20 the records note that applicant injured her left shoulder when she was carrying cargo out of a truck.

The parties utilized Dr. Wolfson as the PQME. Dr. Wolfson examined applicant on 2/23/21. Applicant gave a history of the injury occurring while she was pulling on a fifth wheel gear. The report describes that the fifth wheel gear was not working properly so she needed to do it manually which required applicant to pull with both hands on a long metal stick. Dr. Wolfson diagnosed her with an industrially related rotator cuff tear. At that time Dr. Wolfson had not reviewed any medical reports and based his opinion on applicant’s statements. Dr. Wolfson later reviewed several medical reports and continued to opine that applicant’s claim of injury was industrially related. Defendant deposed Dr. Wolfson on 9/24/21 and pointed out the various histories as noted above. Dr. Wolfson deferred to the trier of fact if the incident occurred as alleged.

Applicant’s testimony matches the mechanism of injury in Dr. Wolfson’s report as well as in Dr. Nkadi’s reporting. Although there are other mechanisms of injury noted in other reports this does not completely undermine applicant’s credibility. Based upon Dr. Wolfson’s reporting and applicant’s testimony it is found that applicant sustained an industrial injury to her left shoulder on July 12, 2020.

DATE: March 4, 2022

**Darcy Kosta**  
WORKERS' COMPENSATION  
ADMINISTRATIVE LAW JUDGE