

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

**JERRED DEUTRA, *Applicant***

**vs.**

**RCH CABLE CONTRACTORS; COMMERCE AND INDUSTRY INSURANCE  
COMPANY, Administered by AIG CLAIMS, *Defendants***

**Adjudication Number: ADJ6660378  
Marina del Rey 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, which we adopt and incorporate, we will deny reconsideration.

For the foregoing reasons,

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

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ JOSEPH V. CAPURRO, COMMISSIONER**

**I CONCUR,**

**/s/ KATHERINE WILLIAMS DODD, COMMISSIONER**



**/s/ CRAIG SNELLINGS, COMMISSIONER**

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

**June 12, 2023**

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

**JERRED DEUTRA  
LAW OFFICES OF BRADFORD & BARTHEL**

**PAG/ara**

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 OF WORKERS' COMPENSATION  
JUDGE ON PETITION FOR RECONSIDERATION**

**I.  
INTRODUCTION**

- |     |                                  |  |
|-----|----------------------------------|--|
| 1.  | Applicant's Occupation:          | Bill Collector                               |
| 2.  | Applicant's Age:                 | 33   |
| 3.  | Date of Injury:                  | Specific of 03-30-2008                       |
| 4.  | Body Parts Injured:              | Cervical/lumbar/sleep/psyche; hips<br>denied |
| 5.  | Manner in Which Injury Occurred: | Fall on concrete steps                       |
| 6.  | Identity of Petitioner:          | Applicant (now in pro per)                   |
| 7.  | Timeliness:                      | Petition was timely filed                    |
| 8.  | Verification:                    | Petition was verified per LC Section<br>5902 |
| 9.  | Date of issuance of Order:       | 03-23-2023                                   |
| 10. | Petitioner's Contentions:        |  |

(a) Petitioner contends the WCJ erred by finding that hips not included as injured AOE/COE.

(b) Petitioner contends WCJ erred by not developing the record because the Agreed Medical Examiner allegedly did not review the MRI with contrast which clearly shows the level of damage [to the hips] which the regular MRI allegedly did not show.

(c) Petitioner contends that the WCJ erred by not developing the record because he believes "Medicare should get a review of this as well."

**II.  
FACTS**

According to the Summary of Evidence dated 03-16-2023 on page 2, lines 21-22, on 03-30-2008 the applicant suggested he fell on some concrete steps, while in the course of his employment. This is his trial testimony. The AME medical reports (including Dr. Preston in Court Exhibit X1 and Dr. Peter Newton in Court Exhibits X2-X8) suggest the same history of injury. He had follow up medical treatment and received 104 weeks of temporary disability/EDD state disability benefits. (See Trial Stipulations). The parties used Dr. Peter Newton as the orthopedic agreed medical examiner (AME) and Dr. Thomas Preston as the psychiatric AME. The parties agreed that the body parts of psyche, sleep, cervical and lumbar were admitted and that the body parts of both hips were disputed. Applicant testified at trial and no one else testified. Importantly, in Trial Stipulation Number 10, the parties agreed that the AME reports were indeed substantial medical evidence.

Applicant said in his trial testimony that he may have been semi-conscious or unconscious when he fell on the date of the injury, and he “was in extreme pain, including in his lower extremities.” (See SOE, page 2, lines 23-24). However, the medical reports reviewed by the AME seem to indicate that applicant had pain in his cervical and lumbar spine and emotional problems in the time immediately after the slip and fall injury. There are no medical records supporting injury to the hips in the immediate or intermediate aftermath of the date of injury.

Applicant stated at trial that the main injuries were to his lower extremities and that pain then emanated into his back and neck. (See SOE page 3, lines 10-11.)

### **III.** **DISCUSSION OF PETITIONER’S CONTENTIONS**

#### **A. FINDING THAT HIPS NOT INCLUDED AS BODY PARTS AOE/COE**

The applicant stated at trial that the labrums were torn on both of his hips; he indicated he went to a place called OrthoNorCal in Capitolo, where he saw a Dr. Abidi. It was this physician, Dr. Abidi who told the applicant that the labrums on his hips were torn. The applicant believes he first saw Dr. Abidi in 2015, seven years after the injury happened. (See SOE page 3, lines 11-13). Orthopedic AME Dr. Newton prepared a records review dated 06-06-2018, as set out in Court Exhibit X8. Dr. Newton spent three and a half hours reviewing medical records for this report. On page 9 of this report Dr. Newton indicated that there is no evidence that the applicant has worked anywhere since March of 2008. The records shortly after the injury of 03-30-2008 show that there was no mention of any injury or abnormalities to applicant’s hips. Dr. Newton felt that the development of hip problems which may have caused applicant to have impingement would not be related to the applicant’s work injury of 03-30-2008 at RCH Cable Contractors/Vertex, but would be “caused by age-related degenerative changes.” Looking into the records review of the report of Dr. Newton of 06-06-2018, there was a report from Dr. Abidi dated 08-29-2016 which stated there was a left hip labral tear with a very small cam lesion and it was a “degenerative” tear [as opposed to a traumatic tear]. In the same report, Dr. Newton noted a report from Dr. Heywood dated 2-22-2017 which described a “degenerative tear” of the acetabular labrum and left hip impingement. Dr. Newton based his opinion on solid evidence that the hip problems were non-industrial.

#### **B. ALLEGED NEED TO DEVELOP RECORD BECAUSE ORTHO AME REVIEWED REGULAR MRI BUT NOT MRI WITH CONTRAST**

Firstly, neither side requested at trial a development of the record to allow the AME to review additional medical reporting. It appears that the applicant feels that the MRIs with contrast show more damage/injury to the hips than the regular MRIs show, and if Dr. Newton only could have reviewed the MRIs with contrast, he would have been persuaded that the hips were truly injured as a result of the work-related slip-and-fall event of 03-30-2008. This is a misreading of the logic of the reporting of Dr. Newton. In the permanent and stationary report of Dr. Newton of 03-22-2016 set out in Court Exhibit X5 and in the supplemental report of 06-06-2018 set out in Court Exhibit X8, Dr. Newton based his opinion that the bilateral hip problems were non-industrial on the lack of significant medical evidence between injury date of 03-30-2008 and the several

following years, rather than on the level of the MRI findings in 2016 and afterwards. Dr. Newton felt it was **the time factor** rather than **the level-of-injury factor** for the hips which determined that the hips were caused by non-industrial matters. Also please keep in mind that the parties had agreed in Trial Stipulation 10 that the reporting of the AMEs constituted substantial medical evidence.

#### **C. ALLEGED NEED TO DEVELOP RECORD TO ALLOW A MEDICARE REVIEW**

There is only a need for a review by Medicare in situations where the parties are planning to close out the right to future medical care through a Compromise and Release. In this case, the parties chose to take the case to trial and the right to future medical care remains open. The WCJ sees no need for a Medicare review.

#### **IV. RECOMMENDATIONS**

For the reasons stated above, it is recommended the Petition for Reconsideration be denied.

DATED: April 17, 2023

**Robert F. Spoeri**  
WORKERS' COMPENSATION  
ADMINISTRATIVE LAW JUDGE