

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

**ANITA L. MCBRIDE, *Applicant***

**vs.**

**AUTO CLUB OF NORTHERN CALIFORNIA;  
OLD REPUBLIC INSURANCE COMPANY,  
adjusted by CANNON COCHRAN  
MANAGEMENT SERVICES, INC., *Defendants***

**Adjudication Number: ADJ10149894  
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.

We have given the WCJ's credibility determination great weight because the WCJ had the opportunity to observe the demeanor of the witness. (*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. (*Id.*)

We deny applicant's attorney's request for attorney fees.

For the foregoing reasons,

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

**WORKERS' COMPENSATION APPEALS BOARD**

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

**I CONCUR,**

**/s/ PATRICIA A. GARCIA, DEPUTY COMMISSIONER**

**/s/ JOSÉ H. RAZO, COMMISSIONER**



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

**March 6, 2023**

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

**ANITA L. MCBRIDE  
HINDEN & BRESLAVSKY  
KEGEL, TOBIN & TRUCE**

**PAG/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**

**I.  
INTRODUCTION**

1.     Applicant's Occupation:                             Office Administrator  
       Ages at Injury:   56  
       Parts of Body Injured:                             Brain (Stroke), Left Eye  
   Hypertension, Low Back  
       Manner in which injury occurred:                 Continuous Trauma
2.     Identity of Petitioner:                             Defendant Automobile Club of  
   Southern California Filed the Petition.  
       Timeliness:   The Petition is Timely.  
       Verified:   The Petition is Verified.
3.     The Petitioner Contends That:
  - a) That the WCJ erred in his Findings & Award by not complying with *Labor Code Section §5313*.
  - b) That the WCJ erred in Finding that the Panel QME Dr. Paul Grodan's Medical Reports constituted substantial evidence.
  - c) That the WCJ erred in Finding that the applicant sustained injury arising out of and in the course of employment to her brain (stroke), left eye, hypertension, and low back.

**II.  
SUMMARY OF FACTS**

This matter proceeded to Trial on September 8, 2022, and October 18, 2022, on the issues of injury arising out of and in the course of employment as to the parts of body injured, namely head, brain (stroke), left eye, face, mouth, hypertension, left shoulder, left upper extremity, left lower extremity, and low back. With respect to parts of body injured, this WCJ found injury as to the applicant's brain (stroke), left eye, hypertension, and low back only, and did not find injury arising out of and in the course of employment as to the applicant's head, face, mouth, left shoulder, left upper extremity, or left lower extremity.

The Court also found that the Medical Reports of Paul Grodan, MD, Panel Qualified Medical Evaluator in the field of Internal Medicine, constitute substantial evidence.

The issues presented by the petitioner defendants raised in their Petition for Reconsideration is whether this WCJ erred in his Findings and Award by not complying with *Labor Code Section §5313*, whether the applicant sustained injury arising out of and in the course of employment to her brain (stroke), left eye, hypertension, and low back, and erred in finding that PQME Paul Grodan's Medical Reports constitute substantial evidence, as noted in this WCJ's Findings of Fact. Findings of Fact, dated 12/20/2022, EAMS DOC. ID NO.: 76255901.

Testimony was taken at the Trials wherein only the applicant testified; defendants did not provide any witnesses. Evidence was provided by both parties. Petitioner Defendants' Petition for Reconsideration addresses the validity of the Findings of Fact issued by this WCJ as stated above. Findings of Fact dated 12/20/2022, EAMS DOC ID NO.: 76255901.

### **III.** **DISCUSSION**

In considering the evidence provided by the parties and considering the admitted evidence and testimony, and in the spirit of *Labor Code Section §5313*, with respect to applicant's brain (stroke), left eye, and low back, applicant submitted the Medical Reports of her Primary Treating Physician, Dr. Jacobo Chodakiewitz, in the field of Neurosurgery, and the parties selected Dr. Abbott Krieger, as a Panel Qualified Medical Evaluator (PQME) in the same field. Regarding the applicant's alleged injuries of hypertension, the parties selected Dr. Paul Grodan, PQME, in the field of Internal Medicine.

In his medical report dated 11/06/2021, Dr. Jacobo Chodakiewitz indicated that the applicant's diagnosis was status post right hemispheric CVA, rule out super imposed cervical and lumbar spine radiculopathies, high blood pressure, probable thalamic (central) pain syndrome, seizure disorder (one episode), and cognitive trouble, *inter alia*. Applicant's Exhibit 2, Medical Report of Treating Physician Jacobo Chodakiewitz, dated 11/06/2016, page 3, par 4, EAMS DOC ID NO.: 40073924.

This diagnosis is consistent with applicant's testimony wherein she described the office environment as stressful. She stated that she worked for the Auto Club of Southern California for the better part of 30 years as an Office Administrator, and for 10 years she Supervised about 12 people which caused her stress. Minutes of Hearing and Summary of Evidence dated 09/08/2022, page 5, lines 16-20, EAMS DOC ID NO.: 75940405.

In addition, the applicant testified that additional stressors at the employment resulted when the manager was out, because all the office concerns came to her desk, and she had to process them. There were not enough staff available, and she also had to work over the counter to fill in and help. Minutes of Hearing and Summary of Evidence dated 09/08/2022, pages 5-6, lines 25, 1-6.

When she was at the employer's Crenshaw office in Los Angeles, the last office she worked at, she had to deal with complaints about the customers on a daily basis. For instance, one of the stressful conditions was processing Motor Vehicle transactions, training the new employees to locate the information, and she would also have to contact the Department of Motor Vehicles.

There would be delays and the customers would become upset. Minutes of Hearing and Summary of Evidence dated 09/08/2022, page 6, lines 7-18, EAMS DOC ID NO.: 75940405.

Further stressful conditions that the applicant testified to without any rebuttal by any witness of defendants were dealing with office problems such as when employees called in sick, scrambling to cover their positions, and coming to work when she was not scheduled in order to fill in, which included Saturdays. Minutes of Hearing and Summary of Evidence dated 09/08/2022, page 6, lines 19-24, EAMS DOC ID NO.: 75940405.

Dr. Abbott Krieger, PQME in the field of Neurology, acknowledged that the applicant had a history of hypertension, but did not relate it to her employment. Dr. Krieger did not address the applicant's stressful conditions at the employment which she testified to, but more importantly, confirmed that her hypertension resulted in the applicant having the stroke. Defendant's Exhibit A, Medical Report of PQME Dr. Abbott Krieger, dated 09/18/2020, page 1, 2, paragraphs 1,1-2. Dr. Krieger did acknowledge however, upon reviewing the Medical Report of PQME Dr. Grodan, whose specialty is in the field of Internal Medicine, that the applicant's stressors at the employment involved her day-to-day activities. Defendant's Exhibit C, Medical Report of PQME Dr. Abbott Krieger, dated 09/20/2020, page 1, par. 2, EAMS DOC ID NO.: 73299446.

Dr. Paul Grodan, PQME in the field of Internal Medicine, stated in his Medical Report dated 07/13/2020, that he issued a Comprehensive Report which reflected review of a large volume of records, which resulted in issuing multiple medical reports, said review of the medical records were more than 66 inches. Joint Exhibit BB, Medical Report of PQME Dr. Paul Grodan, dated 07/13/2020, page 2, paragraph 4, EAMS DOC ID NO.: 34235289.

Dr. Grodan's diagnosis of the applicant was hypertension controlled, seizure disorder post ischemic stroke, and left sided weakness recovered, *inter alia*. **He opined that the hypertensive disease is a result of continuous trauma of the applicant's employment and the non-industrial issues according to the apportionment.** Joint Exhibit BB, Medical Report of PQME Dr. Paul Grodan, dated 07/13/2020, Page 6-7, 8, paragraphs 6, 1, page 8, paragraph 2, EAMS DOC ID NO.: 34235289.

Dr. Grodan stated that the applicant's stress at work was due to the routine day to day tasks and work assignments of having a large amount of work and insufficient time to complete said work. He found the applicant to be a long-term employee who had excellent reviews and was a credible historian, and he relied on her claims that she was experiencing stress. Joint Exhibit CC, Medical Report of PQME DR. Paul Grodan, dated 04/23/2020, page 5, paragraph 1, EAMS DOC ID NO.: 32494657.

Dr Grodan stated that it was within reasonable medical probability that 50% of the applicant's hypertension is apportioned to occupational, industrial factors for the aggravation of the hypertension, and 50% would be attributable to non-industrial factors. Thus Dr. Grodan found industrial causation of the applicant's hypertension attributable to the workplace. Joint Exhibit CC, Medical Report of PQME Paul Grodan, dated 04/23/2020, page 5, paragraph 4, EAMS DOC ID NO.: 32494657.

In his medical records review, Dr. Grodan indicated that the applicant sustained visual impairment of the left eye which was documented by Dr. Crawford Scott and Dr. Nicole Benitah. Joint Exhibit FF, Medical Report of PQME Dr. Paul Grodan, dated 07/15/2019, page 4, paragraph 2, page 18, paragraph 2, EAMS DOC ID NO.: 32209932. Reviewing additional medical records, Dr. Grodan stated that the applicant's eyesight on the left side was lost, and the vision is blurry, and he defers these neurological residuals to the appropriate specialists. Further, he stated there should be a formal ophthalmology assessment to define her visual field deficit causing her visual limitation. Joint Exhibit GG, Medical Report of PQME Dr. Paul Grodan, dated 06/24/2019, page 2, 9, 10, 11, 13, paragraphs 4, 3, 4, 1, 3, EAMS DOC ID NO.: 32764101. In his deposition dated 10/04/2017, Dr. Krieger confirmed the applicant's visual injuries and impairments. Joint HH, Deposition Transcript of Dr. Abbott Krieger, dated 10/04/2017, pages 25-29, EAMS DOC ID NO.: 42457019.

Based on the totality of the circumstances, and considering the applicant's credible testimony, and that no witnesses were provided by defendants, and considering the medical reports, medical records, and deposition transcript of Jacobo Chodakiewitz, dated 03/02/2021; medical reports of 04/06/2016 and 11/10/2015; Abbot Krieger MD, dated 09/18/2020, 09/05/2021, 09/20/2020, 04/05/2017, 09/06/2016, and his deposition transcript dated 10/04/2017; Paul Grodan MD dated 07/27/2022, 07/13/2020, 04/23/2020, 10/18/2019, 08/15/2019, 07/15/2019, 06/24/2019, and several medical records the above-mentioned physicians made reference hereto, it is found that applicant did sustain injury to her brain (stroke), left eye, hypertension, and low back.

Furthermore, the Medical Reports of Dr. Paul Grodan constitute substantial evidence.

#### **IV. ISSUE RAISED**

#### **DEFENDANTS' CLAIM THAT THIS WCJ DID NOT COMPLY WITH LABOR CODE SECTION §5313 DOES NOT HAVE MERIT, FOR THE ENTIRE EVIDENCE PRESENTED TO THIS COURT WAS CONSIDERED TO RENDER A DECISION BASED UPON THE MERITS OF THE CASE.**

*Labor Code Section §5313* states in pertinent part that the Workers' Compensation Judge shall after the case is submitted, make and file Findings upon all facts involved in the controversy and an Award, Order or Decision stating the determination as to the rights of the parties. A summary of the evidence should be served upon the parties to be received and relied upon and state the reasons or grounds upon which the determination was made.

In the instant matter, both summaries of evidence were served upon the parties. As indicated above in the Discussion, this WCJ considered and reviewed the entire record, considered the evidence, ascertained the demeanor of the applicant as a witness in trial, whereby this WCJ found her credible, and based upon all the above-mentioned factors, rendered a Decision as indicated its basis therefore. The tenets in Hamilton and Blackledge were followed. This WCJ found Treating Physician Dr. Chodakiewitz and PQME Dr. Grodan's medical opinions more credible, as opposed to Dr. Krieger. Additionally, the WCJ found the applicant's testimony

credible as well in rendering his Decision. As a result, defendants' argument that this WCJ did not comply with Labor Code Section §5313 et. al. is without merit.

V.

**DEFENDANTS' CLAIM THAT PQME DR PAUL GRODAN 'S MEDICAL REPORTS AND OPINIONS DO NOT CONSTITUTE SUBSTANTIAL EVIDENCE IS FALSE, SINCE APPLICANT PRESENTED MEDICAL EVIDENCE TO THE CONTRARY.**

As previously stated in the Discussion above, PQME Dr. Paul Grodan concluded with reasonable medical probability that the applicant did sustain injury regarding her hypertension as a result of her industrial injury.

It should be noted that defendants did not provide any witness to rebut applicant's credible testimony regarding that her job caused stress throughout her 30 plus years employment as an Office Administrator.

Dr. Grodan's Medical Findings, based on reasonable medical probabilities which constituted substantial evidence, was based on examining the entire record, by taking a detailed history of the applicant, evaluating the applicant, reviewing **all available medical records and diagnostic testing**, and formulated his medical opinion pursuant to his specialty as a Diplomate, American Board of Internal Medicine, Treating Physician and Qualified Medical Examiner. His opinions were a probative force on the medical issues, not speculative and are fully in accordance with *Escobedo v Marshalls* (2005) 70 CCC 604 (Appeals Board En Banc) and *Braewood Convalescent Hospital v. Workers Compensation Appeals Board* (1983) 34 Cal. 3d 159, 164. Dr. Grodan's Medical Opinions were more than a mere scintilla, and relevant evidence was utilized by Dr. Grodan to reach his conclusions. As a result, his medical opinions were reasonable in nature, credible and of solid value. Defendants' argument that applicant's hypertension, which resulted in her Brain (stroke) injury, was not caused by her job notwithstanding Dr. Krieger's Opinion, which this WCJ did not find credible, is without merit.

VI.

**THE APPLICANT DID SUSTAIN HER BURDEN OF PROOF AND PROVED THAT SHE SUSTAINED AN INDUSTRIAL INJURY ARISING OUT OF AND IN THE COURSE OF EMPLOYMENT.**

As stated above in the Discussion, Applicant sustained an industrial injury to her brain (stroke), left eye, hypertension and low back. The evidence considered, the testimony presented of the applicant, and the entire medical record substantiates an industrial injury.

*Labor Code Section §5313* was applied. Substantial medical evidence by the physicians supported the finding of industrial injury.

In light of the above-mentioned factors, the totality of the circumstances supports a finding that applicant sustained an injury arising out of and in the course of her employment.

**VII.**  
**RECOMMENDATION**

For the foregoing reasons, it is recommended that Petitioner AUTOMOBILE CLUB OF SOUTHERN CALIFORNIA, INSURED BY OLD REPUBLIC INSURANCE COMPANY, Adjusted By CANNON COCHRAN MANAGEMENT COMPANYS' Petition for Reconsideration be denied.

Respectfully submitted,

Date: 01/18/2023

**Tommy A. Ruedaflores**  
WORKERS' COMPENSATION ADMINISTRATIVE LAW JUDGE