

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

**DENISHA JOHNSON, *Applicant***

**vs.**

**PEOPLE READY, INC;  
GALLAGHER BASSETT CORONA,  
*Defendants***

**Adjudication Numbers: ADJ11084134, ADJ11084352  
Oakland District Office**

**OPINION AND ORDER  
DENYING PETITION FOR  
RECONSIDERATION**

We have considered the allegations of the Petition for Reconsideration<sup>1</sup> 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 WCJ's analysis of the merits of petitioner's arguments in the WCJ's report which we adopt and incorporate in part, we will deny reconsideration.

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<sup>1</sup> We note that petitioner has filed three petitions dated February 17, 2023; February 21, 2023 and February 27, 2023, each labeled "Petitions for Reconsideration." We will treat the petitions dated February 21, 2023 and February 27 2023, as supplemental pleadings. Pursuant to our authority, we accept applicant's supplemental pleading. (Cal. Code Regs., tit. 8 § 10964) We advise applicant that "[a] party seeking to file a supplemental pleading shall file a petition setting forth good cause for the Appeals Board to approve the filing of a supplemental pleading and shall attach the proposed pleading." (Cal. Code Regs., tit. 8 § 10964) We expect applicant to comply with this requirement in the future.

For the foregoing reasons,

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

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER**

**I CONCUR,**

**/s/ JOSÉ H. RAZO, COMMISSIONER**

**/s/ CRAIG SNELLINGS, COMMISSIONER**



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

**April 17, 2023**

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

**DENISHA JOHNSON (pro per)  
SAMUELSEN, GONZALEZ, VALENZUELA & BROWN LLP**

**LN/pm**

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**

[...]

**FACTS**

[...]

Briefly, applicant Denisha Johnson was employed, through an agency, to perform a variety of tasks at construction sites in California. When she developed pain in her left knee and right wrist, hand and fingers, in late 2016, Ms. Johnson began seeing physicians. She had an injection to the right hand and a surgical consultation but no surgery, initially. That medical care was handled nonindustrially. Applicant continued working full duty.

On October 10, 2017, Ms. Johnson was working on the fourth floor of a building that was under construction and was conveying debris to a Dumpster. On one such trip, the floor gave way and she broke through. Her clothing and left foot caught on the opening, through which she had evidently pitched head- first, but she struck several body parts on the wall below. She was extricated by coworkers, who helped her complete her descent to the third floor. She suffered various physical injuries. She was taken to the emergency department at Alta Bates Summit Medical Center, and further treatment was provided by the employer.

Applicant retained counsel and, through the first of a succession of attorneys, filed workers' compensation claims for the specific and cumulative injuries described above. [How the ending date for the cumulative claim was selected is not readily apparent; see § 5412.] After some missteps and litigation over qualified medical evaluators (QMEs), the parties engaged an agreed medical evaluator (AME), Dr. Joel Renbaum, whose reports of March 20 (Exh. C) and December 5, 2019 (Exh. B) are in evidence. (A third, dated June 22, 2020 (Exh. A) adds nothing to the current issues.) In the first, the AME concludes that Ms. Johnson's injuries have stabilized, leaving her with permanent impairment involving her neck, right shoulder, right hand/wrist, low back, left knee and left foot and ankle.

Applicant underwent surgery in August, 2019, by Dr. Edward Diao, reportedly consisting of a carpal-tunnel and long finger trigger release, on the right. This obviously rendered the earlier finding of maximal improvement no longer valid and necessitated the reevaluation the following December. There, Dr. Renbaum again ascribes compensable impairment in various body parts to applicant's work-related injury, with some apportionment to industrial cumulative trauma and some to other causes. No contrary medical-legal conclusions appear in the record.

Procedurally, this matter did take the long road toward conclusion. There were 20 conferences (it appears that applicant was represented at 13 of these) and four dates of trial scheduled. Although Ms. Johnson does not appear to lack for words (she has filed a considerable number of long documents in EAMS, which shows 250 documents on file), it seems that she had a reluctance to submit invited amendments to the pretrial conference statement. She had trouble appearing at hearings. She certainly had a reluctance to submit the case for decision; it was an appeal of such submission that last saw action by the appeals board.

After a fairly exhaustive review of the available documents, by no means limited to materials admitted in evidence, I determined that there was no need to augment the record with respect to any issue left to be decided. (One issue, that of earnings, presumably for purposes of calculating indemnity rates, was raised by applicant after the pretrial conference statement was filed, and her proposed exhibits, bearing on earnings, were admitted over defendant's objection.) I found no call to disturb the indemnity rates by which defendant paid applicant, or to award temporary disability beyond the 104 weeks indemnified. Relying on the reporting of the AME, I calculated the permanent disability without the need of advice from the Disability Evaluation Unit.

## DISCUSSION

The permanent disability was determined, as explained in the opinion:

*Right hand/wrist:*

(13.11.01.01 – 7 [1.4] 10 – 460G – 12 – 12) .7 = 8% (specific injury)

(13.11.01.01 – 7 [1.4] 10 – 460G – 12 – 12) .3 = 4% (cumulative injury)

*Lumbar spine:*

(15.03.01.00 – 11 [1.4] 15 – 460H – 19 – 19) .7 = 13% (specific injury)

(15.03.01.00 – 11 [1.4] 15 – 460H – 19 – 19) .3 = 6% (cumulative injury)

*Cervical spine:*

(15.01.01.00 – 8 [1.4] 11 – 460H – 14 – 14) .9 = 13% (specific injury)

(10% of impairment apportioned to nonindustrial causes)

*Right shoulder:*

16.02.01.00 – 2 [1.4] 3 – 460G – 4 – 4% (specific injury)

*Left knee:*

(17.05.03.00 – 2 [1.4] 3 – 460H – 5 – 5) .8 = 4% (specific injury)

(17.05.03.00 – 2 [1.4] 3 – 460H – 5 – 5) .2 = 1% (cumulative injury)

*Left foot/ankle:*

17.07.06.00 – 2 [1.4] 3 – 460H – 5 – 5% (specific injury)

(No apportionment stated)

In his final report, Dr. Renbaum declines to apply the doctrine set out in *Athens Administrators, et al., v. Wkrs. Comp. Appeals Bd. (Kite)* (2013) 78 Cal.Comp.Cases 213 (writ denied), whereby multiple impairment ratings are combined by simple addition rather than by use of the multiple disabilities table.

Thus, the ratings to be combined by that method are, for the specific injury (ADJ11084134):

13 c 13 c 8 c 5 c 4 c 4 = 40%

For the cumulative injury (ADJ11084352): 6 c 4 c 1 = 11%

Those figures still look correct. I ordered that 15% of the indemnity awarded be withheld, pending resolution of the liens of applicant's three prior attorneys.

#### **RECOMENDATION**

For the reasons expressed above, I recommend that the three petitions for reconsideration be dismissed. In the alternative, I recommend that they be denied.

Respectfully submitted,

Date: March 17, 2023

**CHRISTOPHER MILLER  
WORKERS' COMPENSATION  
ADMINISTRATIVE LAW JUDGE**