

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

**JOSEPH CHAVIRA, *Applicant***

**vs.**

**SOUTHLAND GUNITE, INC.; NATIONAL LIABILITY & FIRE INSURANCE  
COMPANY, *Defendants***

**Adjudication Number: ADJ10973875  
Van Nuys District Office**

**OPINION AND DECISION  
AFTER RECONSIDERATION**

We granted reconsideration in order to further study the factual and legal issues in this case. This is our Opinion and Decision After Reconsideration.

Defendant seeks reconsideration of the Findings and Award (F&A) issued by the workers' compensation administrative law judge (WCJ) on September 24, 2020. By the F&A, the WCJ found that applicant's psychiatric injury "is a compensable impairment." Applicant's condition was deemed to have caused temporary partial or temporary total disability from January 1, 2017 through August 18, 2019. The WCJ further found that applicant's injury had caused 87% permanent disability based in part on the reporting of the internal medicine panel qualified medical evaluator (QME). The WCJ found that the reporting of the cardiology QME was not substantial evidence.

Defendant contends that the WCJ erred in relying on the reporting of the internal medicine QME instead of the cardiology QME to determine permanent disability. Defendant also contends that the evidence does not support entitlement to increased permanent impairment for applicant's psychiatric injury. Lastly, defendant contends that the evidence does not support the period of temporary disability found by the WCJ.

We received an answer from applicant. The WCJ issued a Report and Recommendation on Petition for Reconsideration (Report) recommending that we deny reconsideration.

We have considered the allegations of defendant's Petition for Reconsideration, applicant's answer and the contents of the WCJ's Report with respect thereto. Based on our review of the record and for the reasons discussed below, we will rescind the F&A and issue a new decision

finding that applicant's injury is catastrophic per Labor Code<sup>1</sup> section 4660.1(c)(2)(B), but will defer the other disputed issues of temporary disability and permanent disability pending further development of the record. (Lab. Code, § 4660.1(c)(2)(B).)

### **FACTUAL BACKGROUND**

Applicant claims injury to his lumbar spine, right ankle, right leg, GERD, hypertensive cardiovascular disease and psyche on January 10, 2017 while employed as a pool bottom finisher by Southland Gunitite, Inc. Defendant disputes injury to his psyche. (Minutes of Hearing and Summary of Evidence, August 18, 2020, p. 2.)

Applicant testified to how his injury occurred and his initial treatment as follows:

The applicant suffered an injury in January of 2017. They had finished shooting a pool, and they were cleaning out the cement tank. The tank had holes in it and water had gotten in and activated the cement. He was told to go into the tank and clean out the debris. A piece of the debris made of dry cement broke off and hit him in the shin and swung him backward into the tank. He climbed out of the tank. He went to the supervisor's son and told him what happened. He was told to finish the job and walk it off.

The following Sunday he went to Parkview community Hospital. He was admitted to the hospital. He had cellulitis. His kidney was shutting down. He was given antibiotics. He was told that the cement hitting his leg had gotten into his blood. He was in the hospital a couple of days. He was sent home for a couple of days, and then he wasn't feeling right so he went back to the hospital. His wife took him back. He was readmitted because he was retaining fluid. He went back home again. He got worse and then he was taken by ambulance to another hospital, Hemet valley Hospital. He was taken there unconscious, and his body was swollen. He was given fluids and medication. It was his last hospitalization regarding the injury. He was in the hospital for six or seven days. He had continued following up with Drs. Gupta and Agarwal. He had fluid in his lungs and congestive heart failure at the time of the injury.

(Minutes of Hearing and Summary of Evidence, August 18, 2020, pp. 4-5.)

Peter Sofia, M.D. conducted the initial orthopedic QME evaluation in March 2018. (Joint Exhibit Z, Medical report of Peter Sofia, M.D., March 7, 2018.) Dr. Sofia found that applicant sustained injury to his pretibial area, the right ankle and the low back as a result of the industrial incident. (*Id.* at p. 9.) Applicant's arm and neck symptoms were considered non-industrial. (*Id.*)

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<sup>1</sup> All further statutory references are to the Labor Code unless otherwise stated.

Dr. Sofia provided impairment ratings as follows: 5% whole person impairment (WPI) for the lumbar spine, 2% WPI for pretibial area pain and 2% for the right ankle. (*Id.* at p. 10.) There is no discussion of periods of temporary disability in his report. Dr. Sofia noted that the only record provided to him was applicant's deposition. (*Id.* at p. 8.) There are indications in other reports in the record that Dr. Sofia was provided with records and issued a supplemental report in May 2018, but Dr. Sofia's supplemental report is not currently part of the evidentiary record. (Applicant's Exhibit No. 1, Medical Report of PQME Minal Borsada, M.D., August 31, 2018, p. 25.)

Minal Borsada, M.D. evaluated applicant as the internal medicine QME. Dr. Borsada included the following report from applicant:

He has a periodic chest pain. It can happen any time. It has no relation with the activity. He cannot be active because of the leg pain. He mainly sits at home, tries to walk around the home. He feels out of breath. He has pressure and tightness in the chest. Dr. Agarwal had repeated his echo three times. His first echo was during February 2017 and then second during April 2017. Sometime last year, he had another echo. He did not have any echo during this year. He stated he can walk up to 5 to 10 minutes and his ankle gives out and he gets shortness of breath. He feels lack of energy. He has to sit down. He does not do any activity. He mainly stays home. At night, he has a hard time sleeping at night. He has no shortness of breath. He stated he does not use any extra pillow. He has a need to wake up frequently to get fresh air two to three times a night. He has chest pain every day with walking 5 minutes or sitting. It happens two to three times a day. His last episode was on the day of the QME. He tries to massage, he takes a deep breath. He does not like to take nitroglycerin. He took once and he had side effect, he felt that his whole body would shut down. Therefore, he is not taking nitroglycerin. When he has a very severe chest pain, he used to take nitroglycerin in the past. He denies having any chest pain at night. He stated even taking shower gives him shortness of breath. His appetite is low. He lost weight up to 12 to 13 pounds. He used to weigh 170 pounds while working. He was very active, playing basketball, swimming, riding bikes, football, all kinds of sports, play with the children. He cannot do any of these activities. He cannot even play with children. He mainly stays home and does painting with his children because he cannot do any other activity with them.

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He has difficulty in falling and maintaining his sleep. He goes to bed around 9:30 to 10 p.m. It is hard for him to fall asleep. He tosses and turn. He falls asleep around 1 to 2 a.m. He sleeps for 30 to 40 minutes and again wakes up. Most of the night, he is awake. He does not snore. He stated he cannot sleep and he is not sure why. He comes out of bed around 7:30 to 8 a.m. Once he comes out, he goes to restroom, gets a drink, he sits outside, talks to the wife, sitting in the backyard, just lies on the bed. He does not eat any breakfast. He takes a shower, watches the TV, watches kids play, and he paints with them. He

does not do any other activity. He cannot sleep during the day. He tries to take a nap; however, he cannot sleep. He stated that he has four children. He does not take them to school. He drives only 5 to 10 minutes. Wife takes him usually to the doctor's appointment time to time.

(Applicant's Exhibit No. 2, Medical Report of PQME Minal Borsada, M.D., December 28, 2018, pp. 96 and 101.)

Dr. Borsada's final diagnoses included the following: left lower extremity cellulitis, acute kidney injury, hypertension, congestive heart failure (CHF), irritable bowel syndrome (IBS) symptoms and sleep disturbance. (*Id.* at p. 102.) All of these conditions were considered industrial by Dr. Borsada. (*Id.* at pp. 102-103.) Applicant's condition was considered permanent and stationary "except his CHF and sleep disturbance and IBS symptoms are not evaluated by anyone and need further evaluation and treatment." (*Id.* at p. 103.) A 56% WPI rating was "related to HTN and CHF," which was apportioned 100% to the industrial injury per the QME. (*Id.* at pp. 107-108.) Dr. Borsada further opined that applicant "needs to be evaluated by [*sic*] cardiologist on industrial basis." (*Id.* at p. 108.)

Roger Acheatel, M.D. subsequently evaluated applicant as the QME in cardiology. Dr. Acheatel concluded as follows in relevant part:

With regard to the issue of causation, it is my medical opinion that the injury sustained by Mr. Chavira on January 10, 2017 was the causal source of the resulting cellulitis infection causing nephrotic syndrome, fluid retention, hypertension, as well as fluid overload with diffuse peripheral edema. Based on the above, I am in agreement with the "causational chain" noted by Dr. Borsada, as outlined in the QME of Dr. Borsada, dated December 28, 2018. The causational chain is reasonable.

With regard to treatment and medication "required to get Mr. Chavira's condition under control," many of the above issues have resolved. That is, there is no evidence for congestive heart failure, his blood pressure is normal with no medications, his chest pain has been evaluated with a stress test which apparently was negative for ischemia but I have no record of that test specifically.

(Defendant's Exhibit A, Medical report of Roger Acheatel, M.D., June 12, 2019, p. 7.)

Applicant's hypertension and congestive heart failure were considered to have reached maximum medical improvement by Dr. Acheatel. (*Id.* at p. 8.) Dr. Acheatel found both conditions to have

0% WPI ratings since they were asymptomatic. (*Id.*) He found applicant to have been temporarily totally disabled from January 10, 2017 through January 1, 2018. (*Id.*) The record does not reflect that Dr. Acheatel's report was provided to Dr. Borsada for review and comment.

James Sherman, M.D. evaluated applicant's gastrointestinal issues as a panel QME. Dr. Sherman diagnosed applicant with irritable bowel syndrome. (Joint Exhibit Y, Medical report of James Sherman, M.D. August 18, 2019, p. 7.) This was considered to have been caused on an industrial basis and to have reached maximum medical improvement. (*Id.* at p. 9.) Dr. Sherman assigned this disorder a 5% WPI rating. (*Id.*) Apportionment was 100% industrial. (*Id.* at p. 10.) He concluded that applicant "did not require temporary total disability on an industrial basis due to his problems in the arena of internal medicine." (*Id.*)

Applicant was evaluated by David Reiss, M.D. as the psychiatric panel QME. Dr. Reiss diagnosed applicant with an adjustment disorder. (Applicant's Exhibit No. 3, Medical report of PQME David Reiss, M.D., January 21, 2020, p. 20.) This was considered predominantly caused "by the circumstances and medical sequelae of Mr. Chavira's industrially-related physical injury." (*Id.* at p. 19.) Dr. Reiss assigned applicant with a GAF score of 62, which translates to 12% WPI. (*Id.* at p. 21.) Apportionment was 75% to the injury and 25% to non-industrial causes. (*Id.* at p. 22.)

The matter proceeded to trial on August 18, 2020. The parties made several stipulations including injury to the lumbar spine, right ankle, right leg, GERD and hypertensive cardiovascular disease. (Minutes of Hearing and Summary of Evidence, August 18, 2020, p. 2.) Disputed issues included in pertinent part: parts of the body injured, further temporary disability from 1/10/17 until 1/8/20, permanent disability, whether the report of Dr. Acheatel is controlling over the report of Dr. Borsada, whether the psyche injury is compensable under section 3208.3 and applicant's claim for additional permanent disability for psyche per the Labor Code and *Wilson*.<sup>2</sup> (*Id.* at p. 3.) Applicant's testimony at trial included the following as summarized:

He had problems at the time of the injury with his low back, right ankle and his right shin. His internal conditions that he has now include kidney problems, heart problems, hypertension and fluid in the lungs. He has lack of energy, chest pain, and his ankle gives out on him sometimes. He believes he has PTSD. He used to provide for his family, now he's unable to do so. He's not able to pay for his son's activities. His finances went down. Stress from the injury has

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<sup>2</sup> This is in reference to *Wilson v. State of CA Cal Fire* (2019) 84 Cal.Comp.Cases 393 (Appeals Board en banc).

affected how he sees himself. He would accept psychological treatment. None has been given to him, other than the PQME. His body has not recovered essentially. He's lost valuable time with his children.

He is now working light duty for the same employer. Some days he can't work the whole day, or a whole week. He has low energy. He did not have low energy before the injury. He returned to work about three months ago. He doesn't believe he can go back to going into the pool and doing the cutting.

(*Id.* at p. 5.)

The WCJ issued the resulting F&A as outlined above.

## DISCUSSION

### I.

Decisions of the Appeals Board must be supported by substantial evidence. (Lab. Code, §§ 5903, 5952(d); *Lamb v. Workmen's Comp. Appeals Bd.* (1974) 11 Cal.3d 274 [39 Cal.Comp.Cases 310]; *Garza v. Workmen's Comp. Appeals Bd.* (1970) 3 Cal.3d 312 [35 Cal.Comp.Cases 500]; *LeVesque v. Workmen's Comp. Appeals Bd.* (1970) 1 Cal.3d 627 [35 Cal.Comp.Cases 16].) To constitute substantial evidence “. . . a medical opinion must be framed in terms of reasonable medical probability, it must not be speculative, it must be based on pertinent facts and on an adequate examination and history, and it must set forth reasoning in support of its conclusions.” (*Escobedo v. Marshalls* (2005) 70 Cal.Comp.Cases 604, 621 (Appeals Board en banc).) “Medical reports and opinions are not substantial evidence if they are known to be erroneous, or if they are based on facts no longer germane, on inadequate medical histories and examinations, or on incorrect legal theories. Medical opinion also fails to support the Board's findings if it is based on surmise, speculation, conjecture or guess.” (*Hegglin v. Workmen's Comp. Appeals Bd.* (1971) 4 Cal.3d 162, 169 [36 Cal.Comp.Cases 93].)

Dr. Borsada recommended that applicant be evaluated by a cardiologist for his CHF. Pursuant to this recommendation, Dr. Archeatal conducted an evaluation as a panel QME in cardiology. However, Dr. Archeatal's report was not subsequently provided to Dr. Borsada for his review and comment. This omission is particularly significant considering the disparity between the two doctors' findings regarding permanent impairment.

The Appeals Board has the discretionary authority to develop the record when the medical record is not substantial evidence or when appropriate to provide due process or fully adjudicate

the issues. (*McClune v. Workers' Comp. Appeals Bd.* (1998) 62 Cal.App.4th 1117, 1121-1122 [63 Cal.Comp.Cases 261]; see also *Tyler v. Workers' Comp. Appeals Bd.* (1997) 56 Cal.App.4th 389, 394 [62 Cal.Comp.Cases 924]; Lab. Code, §§ 5701, 5906.) The Appeals Board also has a constitutional mandate to “ensure substantial justice in all cases” and may not leave matters undeveloped where it is clear that additional discovery is needed. (*Kuykendall v. Workers' Comp. Appeals Bd.* (2000) 79 Cal.App.4th 396, 403-404 [65 Cal.Comp.Cases 264].) The “Board may act to develop the record with new evidence if, for example, it concludes that neither side has presented substantial evidence on which a decision could be based, and even that this principle may be appropriately applied in favor of the employee.” (*San Bernardino Community Hosp. v. Workers' Comp. Appeals Bd. (McKernan)* (1999) 74 Cal.App.4th 928, 937-938 [64 Cal.Comp.Cases 986].)

We recommend the parties develop the record including by providing Dr. Archeatel's report to Dr. Borsada for his review and comment via a supplemental report. (See *McDuffie v. Los Angeles County Metropolitan Transit Authority* (2002) 67 Cal.Comp.Cases 138 (Appeals Board en banc) [the preferred procedure to develop a deficient record is to allow supplementation of the medical record by the physicians who have already reported in the case].) Additionally, it is noted that only one of Dr. Sofia's reports is in evidence, which states that he was not provided with any records except applicant's deposition. There are references in other physicians' reports indicating that Dr. Sofia issued a supplemental report in May 2018 following a review of records. It is recommended that this report be included as part of the evidentiary record, as relevant to the issues in dispute in further proceedings.

Thus, we must return this matter for further development of the record as outlined herein. Issues regarding periods of temporary disability and permanent disability will be deferred pending further development of the record.

## II.

The employee bears the burden of proving injury arising out of and in the course of employment (AOE/COE) by a preponderance of the evidence. (*South Coast Framing v. Workers' Comp. Appeals Bd. (Clark)* (2015) 61 Cal.4th 291, 297-298, 302 [80 Cal.Comp.Cases 489]; Lab. Code, §§ 3202.5, 3600(a).) With respect to psychiatric injuries, section 3208.3 provides, in relevant part, as follows:

In order to establish that a psychiatric injury is compensable, an employee shall demonstrate by a preponderance of the evidence that actual events of employment were predominant as to all causes combined of the psychiatric injury.

(Lab. Code, § 3208.3(b)(1).)

The psychiatric QME Dr. Reiss concluded that applicant's psychiatric condition was predominantly caused by his industrial physical injury. Dr. Reiss provided a thorough evaluation of applicant and his records, and gave a detailed explanation supporting his causation opinion to a reasonable medical probability. We find his opinions to be persuasive and to constitute substantial medical evidence. The record thus supports a finding that applicant sustained injury AOE/COE to his psyche as a compensable consequence of his physical injury. (See *Lockheed Martin Corp. v. Workers' Comp. Appeals Bd. (McCullough)* (2002) 96 Cal.App.4th 1237, 1249 [67 Cal.Comp.Cases 245] ["the precipitating physical injury constitutes an 'actual event[] of employment' within the meaning of [section 3208.3(b)(1)]".])

The employee also bears the burden of establishing the approximate percentage of permanent disability caused by the industrial injury. (*Escobedo, supra*, 70 Cal.Comp.Cases at p. 612.) Applicant's injury occurred in 2017. Section 4660.1 governs how to determine permanent disability for injuries occurring on or after January 1, 2013 and provides as follows in relevant part:

(c) (1) Except as provided in paragraph (2), there shall be no increases in impairment ratings for sleep dysfunction, sexual dysfunction, or psychiatric disorder, or any combination thereof, arising out of a compensable physical injury. Nothing in this section shall limit the ability of an injured employee to obtain treatment for sleep dysfunction, sexual dysfunction, or psychiatric disorder, if any, that are a consequence of an industrial injury.

(2) An increased impairment rating for psychiatric disorder shall not be subject to paragraph (1) if the compensable psychiatric injury resulted from either of the following:

(A) Being a victim of a violent act or direct exposure to a significant violent act within the meaning of Section 3208.3.

(B) A catastrophic injury, including, but not limited to, loss of a limb, paralysis, severe burn, or severe head injury.

(Lab. Code, § 4660.1(c)(1)-(2).)



As stated in *Wilson*:

[S]ection 4660.1(c) does not apply to psychiatric injuries directly caused by events of employment. Section 4660.1(c)(1) only bars an increase in the employee's permanent impairment rating for a psychiatric injury that is a compensable consequence of a physical injury occurring on or after January 1, 2013. However, the employee may receive an increased impairment rating for a compensable consequence psychiatric injury if the injury falls under one of the statutory exceptions outlined in section 4660.1(c)(2).

(*Wilson, supra*, 84 Cal.Comp.Cases at p. 403.)

Therefore, in order to receive an increased impairment rating for his psychiatric injury, applicant "bears the burden of proving his psychiatric injury was directly caused by events of employment, or, alternatively, if the psychiatric injury is a compensable consequence of the physical injury, applicant must show that the psychiatric injury resulted from either: 1) being a victim of a violent act or direct exposure to a significant violent act, or 2) a catastrophic injury." (*Id.*)

As discussed above, applicant's psychiatric injury was deemed a compensable consequence of the physical injury. Therefore, he must show that his injury qualifies for one of the statutory exceptions in section 4660.1(c)(2) in order to receive an increased impairment rating for his psychiatric condition.

Defendant contends that applicant did not meet his burden of showing that his injury was catastrophic pursuant to *Wilson*. In *Wilson*, the Appeals Board determined that whether an injury is catastrophic "focuses on the *nature of the injury*" and is "a fact-driven inquiry." (*Wilson, supra*, 84 Cal.Comp.Cases at p. 414, emphasis in original.) "Whether an injury is 'catastrophic' under section 4660.1(c)(2)(B) is therefore a factual/legal issue for the WCJ to determine." (*Id.*) The "inquiry into whether an injury is catastrophic is limited to looking solely at the *physical* injury, without consideration for the psychiatric injury in evaluating the nature of the injury." (*Id.*) The *Wilson* decision outlined the following (non-exhaustive) factors for the trier of fact to consider in determining whether an injury may be deemed catastrophic:

1. The intensity and seriousness of treatment received by the employee that was reasonably required to cure or relieve from the effects of the injury.
2. The ultimate outcome when the employee's physical injury is permanent and stationary.

3. The severity of the physical injury and its impact on the employee's ability to perform activities of daily living (ADLs).
4. Whether the physical injury is closely analogous to one of the injuries specified in the statute: loss of a limb, paralysis, severe burn, or severe head injury.
5. If the physical injury is an incurable and progressive disease.

(*Id.* at p. 415.)

The record in this matter establishes that applicant's course of treatment for his industrial injury was significant and life-threatening. Shortly after the injury, he was admitted and then re-admitted to the hospital with serious conditions resulting from his physical injury. Applicant was in the hospital for several days. He suffered kidney failure, cellulitis, sepsis and congestive heart failure.

The record also shows that the injury has caused a lasting and substantial impact to his ability to perform ADLs.<sup>3</sup> The medical evidence and applicant's trial testimony reveal that his physical activity is severely limited due to pain in various body parts, including chest pain, and difficulty with his ankle giving out. Applicant also struggles with sleep.

Defendant suggests that applicant's injury cannot be considered catastrophic because he has returned to working light duty. It is noted that work is expressly excluded as an ADL by the AMA Guides. (AMA Guides, § 1.2a, p. 4, emphasis in original [the impairment ratings in the Guides "reflect the severity of the medical condition and the degree to which the impairment decreases an individual's ability to perform common **activities of daily living (ADL)**, *excluding* work"].) Moreover, the *Wilson* decision specifically stated that whether an injury is catastrophic is not measured based on the injury's impact to the employee's earning capacity. (*Wilson, supra*, 84 Cal.Comp.Cases at p. 411.) Applicant's return to work in some fashion does not preclude a finding that his injury was catastrophic.

Applicant has met his burden of proving that his injury is catastrophic per section 4660.1(c)(2)(B) and *Wilson*. This is not the type of injury that the Legislature sought to preclude from an increased impairment for a psychiatric condition. Therefore, we agree with the WCJ's

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<sup>3</sup> Activities of daily living include: 1) self-care, personal hygiene, 2) communication, 3) physical activity, 4) sensory function, 5) nonspecialized hand activities, 6) travel, 7) sexual function, and 8) sleep. (American Medical Association Guides to the Evaluation of Permanent Impairment (5th ed. 2001) (AMA Guides), Table 1-2, p. 4.)

conclusion that applicant sustained a catastrophic injury and may receive an increased impairment rating for his psyche.

In conclusion, we will rescind the F&A and issue a new decision that includes a finding that applicant's injury is catastrophic per section 4660.1(c)(2)(B). The decision will retain the parties' trial stipulations on those issues that do not require further development of the record. (See Lab. Code, § 5702; see also *County of Sacramento v. Workers' Comp. Appeals Bd. (Weatherall)* (2000) 77 Cal.App.4th 1114 [65 Cal.Comp.Cases 1].) Issues regarding temporary disability and permanent disability will be deferred pending further development of the record.

For the foregoing reasons,

**IT IS ORDERED** as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the Findings and Award issued by the WCJ on September 24, 2020 is **RESCINDED** and is **SUBSTITUTED** with the following:

#### **FINDINGS OF FACT**

1. Joseph Chavira, age 34 at the time of injury, while employed on January 10, 2017 as a pool bottom finisher, Occupational Group No. 480, at Costa Mesa, California, by Southland Granite, Inc., sustained injury arising out of and in the course of employment to his lumbar spine, right ankle, right leg, GERD, hypertensive cardiovascular disease and psyche.
2. At the time of the injury, the employer's workers' compensation carrier was National Liability & Fire Insurance Company.
3. At the time of injury, the employee's earnings were \$1,120.00 per week, warranting temporary disability at the rate of \$746.66 per week and \$290.00 per week for permanent disability.
4. The Employment Development Department paid benefits at the rate of \$616.00 per week from 6/10/17 through 6/8/18 with the total balance issued of \$32,032.00.
5. The employer has furnished some medical treatment. The primary treating physician was Dr. Smith and now is Dr. Gupta.
6. No attorney's fees have been paid and no attorney fee arrangements have been made.
7. Applicant's injury is catastrophic per section 4660.1(c)(2)(B).
8. The period(s) of temporary disability is deferred pending further development of the record.
9. Applicant's level of permanent disability is deferred pending further development of the record.

**ORDER**

**IT IS ORDERED** that the issues of temporary disability and permanent disability are deferred pending further development of the record.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ CRAIG SNELLINGS, COMMISSIONER**

**I CONCUR,**

**/s/ JOSÉ H. RAZO, COMMISSIONER**

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



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

**OCTOBER 22, 2021**

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

**COLEMAN CHAVEZ & ASSOCIATES  
JOSEPH CHAVIRA  
LAW OFFICES OF ROBERT OZERAN**

***AI/pc***

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