

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

**MANUEL FLORES (Deceased); VERONICA REYES VARGAS, Guardian Ad Litem and  
Trustee for minor children DANIELA FLORES REYES, LUIS ENRIQUE FLORES  
REYES, JOSE MANUEL FLORES, and JACKELYNE FLORES REYES, *Applicants***

**vs.**

**NEIL DRYSDALE, Permissibly Self-Insured, Administered by FINISH LINE SELF-  
INSURANCE GROUP, *Defendants***

**Adjudication Number: ADJ10234372  
Van Nuys 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/ KATHERINE A. ZALEWSKI, CHAIR**

I CONCUR,

**/s/ CRAIG SNELLINGS, COMMISSIONER**

**/s/ JOSÉ H. RAZO, COMMISSIONER**



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

**APRIL 2, 2021**

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

**MANUEL FLORES  
LAW OFFICES OF WILLIAMS D. HENDRICKS  
GOLDMAN, MAGDALIN & KRIKES  
EMPLOYMENT DEVELOPMENT DEPT., STATE DISABILITY INSURANCE**

**PAG/ara**

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

**REPORT AND RECOMMENDATION**  
**ON PETITION FOR RECONSIDERATION**

**I**

**INTRODUCTION**

A Findings and Order issued on January 6, 2021 in which it was found that Manuel Flores, age 50, while employed during the period November 1, 2011 through December 31, 2012, as a groom, occupational group number 491, at Anita California, by Neil Drysdale, permissibly self- insured and administered by Finish Line Self Insurance Group, did not sustain injury to his heart, resulting in his death on June 06, 2015.

Applicant filed a timely verified petition for reconsideration of the January 6, 2021 Findings and Order. Petitioner contends the WCJ erred by: a) relying on the medical report of Agreed Medical Evaluator Jeffrey Hirsch M.D. which applicant contends was based on surmise, guess and speculation rather than reasonable medical probability.

**II**

**FACTS**

Mr. Flores was employed as a groom by Neil Drysdale. His job duties included cleaning stables as well as grooming, feeding, and preparing horses for riding. He traveled with the horses and cared for them on the racetrack. He filed five inter-vivos claims against the employer including acumulative trauma claim and four specific injury claims. The first specific injury claim pertains to a November 2, 2000 incident in which a horse bumped its mouth into applicant's stomach. The second specific injury claim pertains to an April 13, 2008 incident in which applicant was head butted by a horse, sustaining injuries to his face and head. The third specific injury claim pertains to an October 14, 2011 incident in which the applicant was kicked in the left knee by a horse. The fourth specific injury claim pertains to an April 22, 2012 incident in which applicant was holding a horse's reigns when the horse reared back causing the applicant to twist his neck and back. (See Exhibit 9, transcript of deposition of Manuel Flores, February 6, 2014, pages 40, 45, 50-51, and 59.)

Mr. Flores testified in his deposition that he stopped working for Neil Drysdale on December 31, 2012. At that time he was experiencing vomiting, headaches, dizziness, and diarrhea. His doctor told him that his gallbladder was causing these issues. Because of his gallbladder he was placed off work. (Exhibit 9, transcript of February 6, 2014 deposition of Manuel Flores page 24, line 19 through page 25, line 10). Gallbladder surgery was planned but delayed. On April 13, 2015 Mr. Flores was seen in the emergency room at Centinela Hospital. He was diagnosed with supraventricular tachycardia and congestive heart failure. (Exhibit X1, report by Jeffrey Hirsch M.D. dated October 20, 2016, page 10). On June 1, 2015 Mr. Flores was seen in emergency department at Garfield Hospital in severe heart failure. He underwent a massive open-heart surgery on June 5, 2015 and expired one day later. (Exhibit X1, report by Jeffrey Hirsch M.D. dated October 20, 2016, pages 11-12.)

On July 14, 2015 an application for death benefits was filed. The parties agreed to utilize Jeffrey Hirsch, M.D. as an Agreed Medical Evaluator to address the issues in the case. He issued a report dated October 20, 2016 indicating that he did not believe the applicant's death was industrial in origin. Additionally he gave deposition testimony on January 23, 2017 in which he reiterated his opinion that based on his review of the medical records and the interview with applicant's widow there was no nexus connecting the decedent's death and his employment with Neil Drysdale.

On December 9, 2019 an Order Approving Compromise and Release issued approving settlement of accrued benefits claims with regard to applicant's inter-vivos claims for a cumulative trauma injury through December 31, 2012, the specific injury of April 22, 2012, and the specific injury of October 14, 2011. Subsequently the matter proceeded to trial on applicant's death claim. The issues included whether Mr. Flores sustained injury to his heart resulting in his death on June 6, 2015, and whether the medical reports of doctors Musher and Gofnung, and the medical report and transcript of deposition of Agreed Medical Evaluator Jeffrey Hirsch M.D. were substantial medical evidence. A findings and order issued on January 6, 2021 in which it was found that Mr. Flores did not sustain injury to his heart, resulting in his death on June 6, 2015, that the medical opinion of Dr. Hirsch on the issue of causation was substantial medical evidence, and that the reports of doctors Musher and Gofnung were not. It is from this findings and order that the applicant has filed a timely verified petition for reconsideration.

### **III**

### **DISCUSSION**

#### **A**

#### **Opinion by Agreed Medical Evaluator Jeffrey Hirsch M.D. Not Based On Surmise, Guess and Speculation**

Petitioner's contends that Dr. Hirsch's conclusions are "not based upon any reliable evidence but upon his biased view of persons from Mexico". This is not borne out by a review of Dr. Hirsch's reporting. For the reasons set forth below this judge found the reporting of Dr. Hirsch to be substantial medical evidence.

First, it is noted that the parties selected Dr. Hirsch as an Agreed Medical Evaluator. Presumably the parties chose Dr. Hirsch because of his expertise and neutrality. Therefore, his opinion should ordinarily be followed unless there is good reason to find that the opinion is unpersuasive. (See *Power v. Workers' Comp. Appeals Bd.* (1986) 179 Cal.App.3d 775, 782 [51 Cal.Comp.Cases 114].) Secondly, Dr. Hirsch provided detailed analysis explaining the reasoning behind his opinion. He interviewed applicant's widow, Veronica Reyes, viewed voluminous medical records and performed medical research in order to complete his medical legal evaluation of the issues. On page 5 of his October 20, 2016 report Dr. Hirsch outlined his diagnostic impressions including:

4. Valvular heart disease leading to heart failure;
  - a. Mitral regurgitation due to flail leaflet (probably superimposed on rheumatic mitral valve disease from childhood);
  - b. Aortic regurgitation with bicuspid aortic valve;
  - c. Eventual tricuspid regurgitation due to elevated right-sided pressures occurring as a consequence of heart failure.
5. Death due to advanced/refractory heart failure in the setting of valvular heart disease (despite three-valve replacement open heart surgery several days before death)

He noted that there was evidence of long-standing heart valve disease stating on page 7 of his report that:

“The reviewed medical records date back to stress echocardiography by Dr. Jafari on November 23, 2005. This test result is extremely important; one notes that the applicant already had "moderate aortic valve insufficiency" at this date in 2005 [undoubtedly due to the bicuspid aortic valve later proven to be present in Mr. Flores].”

Dr. Hirsch noted that applicant had performed arduous physical tasks and sustained multiple physical injuries at work. However, he explained that it is rare for physical injuries to cause damage to heart valves. (Exhibit X1, report by Jeffrey Hirsch M.D. dated October 20, 2016, page 5.) He then he outlined potential industrial causes of applicant’s valvular heart damage and gave the following explanation as to why they were not applicable:

“Typically, physicians expect to see ruptured chordae tendineae [that is, major heart valve damage] after high-speed motor vehicle accidents, major chest trauma, or traumatic falls from very significant height. *Mr. Flores did not experience any trauma of that nature in the weeks before he developed precipitous decline (from acute mitral valve failure).*” (X1, report by Jeffrey Hirsch M.D. dated October 20, 2016, page 6, italics added.)

Dr. Hirsch also went on to explain that:

“. . . individuals having history of infectious or rheumatic valve disease have greatly weakened heart valves more prone to damage (the most likely explanation for the manner by which Mr. Flores developed sudden mitral valve failure due to flail leaflet).” (Exhibit X1, report by Jeffrey Hirsch M.D. dated October 20, 2016, page 6.)

He then explained that even as to individuals with pre-existing diseased heart valves, other potential industrial causes could lead to cardiac valve failure including endocarditis and heart attacks. He then ruled out endocarditis as a cause for applicant's heart valve failure stating:

“Assuming that an individual has a diseased mitral valve, other processes can lead to failure of the cardiac valve. For instance, individuals can develop endocarditis [infections atop a heart valve] after dental procedures or colonoscopy. *No evidence exists in this casesuggesting that Mr. Flores had endocarditis.*” (Exhibit X1, report by Jeffrey Hirsch M.D. dated October 20, 2016, page 6, italics added.)

He also ruled out heart attack as a cause for applicant's heart valve failure stating:

“Commonly, individuals can experience heart attacks that damage the muscular areas of the heart comprising the valve or immediately surrounding the valve. In those cases, individuals can develop sudden flail leaflet due to damage induced by the heart attack [*demonstrably not present in Mr. Flores*].” (Exhibit X1, report by Jeffrey Hirsch M.D. dated October 20, 2016, page 6, italics added.)

After reviewing voluminous medical records and noting applicant's various blood pressure readings Dr. Hirsch also ruled out hypertension a cause for applicant's heart valve failure stating:

“I see in these records that various physicians put forth the diagnosis of ‘hypertension’ as a chronic disorder in Mr. Flores. However, I saw only one elevated blood pressure reading and dozens of normal readings (in the absence of anti-hypertensive medication). *Thus, the most common mechanism by which an injured worker's damaged heart valve might sustain further damage on an industrial basis (uncontrolled hypertension)is not evident in this case.*” (Exhibit X1, report by Jeffrey Hirsch M.D. dated October 20, 2016, page 12, italics added.)

Petitioner also contends that Dr. Hirsch incorrectly stated that there was no history of chest trauma predating the onset of applicant's heart disease. Petitioner states that “[t]he applicant testifiedthat indeed he had been the subject of more than one traumatic kicking by a horse which appears to have concussed the abdomen.” (Petition for reconsideration dated February 1, 2021, page 4, lines 8 through 10.)This is simply not true. In his February 6, 2014 deposition (Exhibit 9) applicant described only four specific injuries. Only one of the injuries involved being kicked by a horse. Mr. Flores testified that the injury occurred on October 14<sup>th</sup> 2011. He stated that a horse and kicked him on his left knee. (See Exhibit 9, transcript of deposition of Manuel Flores February 6, 2014, page 50, line 25 through page 51, line 9.) Mr. Flores did testify to an injury to his stomach stating that “I was going to fit the horse, and he just hit me with his mouth -- I don't know how you call it -- on my stomach.” (Exhibit 9, transcript of deposition of Manuel Flores February 6, 2014, page 40, lines 6 - 14.) However, this incident occurred in the year 2000, approximately 15 years prior to applicant's death. In discussing the lack of major chest trauma Dr. Hirsch stated “Mr. Flores did not experience any trauma of that

nature *in the weeks before he developed precipitous decline* (from acute mitral valve failure).” (Exhibit X1, report by Jeffrey Hirsch M.D. dated October 20, 2016, page 6, italics added.)

As indicated above Dr. Hirsch’s report included a diagnosis of “Mitral regurgitation due to flail leaflet (probably superimposed on rheumatic mitral valve disease from childhood).” (Exhibit X1, report by Jeffrey Hirsch M.D. dated October 20, 2016, page 5.) Petitioner contends that this establishes that Dr. Hirsch has a “biased view of persons from Mexico” claiming that:

“There was no evidence of the applicant having suffered from rheumatic fever in childhood. There were no medical records reviewed nor any deposition testimony that the applicant suffered from rheumatic fever as a child.” (Petition for reconsideration dated February 1, 2021, page 3, lines 17 through 19.)

This is not true. Dr. Hirsch reviewed hospital records including an April 16, 2015 cardiology progress note by Dr. Bridges noting:

“The heart catheter findings exclude ischemic heart disease as underlying his mitral valve dysfunction. Dr. Bridges thought it was likely he had some unusual form of *rheumatic valve disease*. This conclusion was supported by the presence of a very dilated left atrium of greater than 58 mm in diameter. This latter finding also increased the likelihood that his tachycardia was coming from the left atrium as was *common [in] rheumatic valve disease patients*.” (Exhibit X1, report by Jeffrey Hirsch M.D. dated October 20, 2016, pages 55 - 56, italics added.)

Clearly, Dr. Hirsch based his diagnoses on a review of the record, not on surmise, speculation conjecture or guesses, and not upon a biased view of persons from Mexico.

This judge found the reporting by Agreed Medical Evaluator Jeffrey Hirsch M.D. to be thoughtful and thorough. It explained the doctors reasoning. Upon this basis this judge found the reporting by Agreed Medical Evaluator Jeffrey Hirsch M.D to be substantial medical evidence.

#### **IV**

#### **RECOMMENDATION**

It is respectfully recommended the applicant’s petition for reconsideration be denied.

DATE: February 11, 2021

**Randal Hursh**  
WORKERS’ COMPENSATION  
ADMINISTRATIVE LAW JUDGE