

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

**MIGUEL CISNEROS, *Applicant***

**vs.**

**MANHATTAN FINISH INC.; SECURITY NATIONAL INSURANCE COMPANY  
administered by AMTRUST, *Defendants***

**Adjudication Numbers: ADJ15636495, ADJ10877994, ADJ11129522  
Van Nuys District Office**

**OPINION AND DECISION AFTER  
RECONSIDERATION**

We previously granted reconsideration to further study the factual and legal issues. This is our decision after 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 affirm the November 2, 2022, Findings and Award.

We observe, moreover, it is well-established that the relevant and considered opinion of one physician may constitute substantial evidence, even if inconsistent with other medical opinions. (*Place v. Workmen's Comp. Appeals Bd.* (1970) 3 Cal.3d 372, 378-379 [35 Cal.Comp.Cases 525].)

For the foregoing reasons,

**IT IS ORDERED** as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the November 2, 2022, Findings and Award is **AFFIRMED**.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ CRAIG SNELLINGS, COMMISSIONER**

**I CONCUR,**

**/s/ JOSÉ H. RAZO, COMMISSIONER**

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



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

**February 15, 2023**

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

**MIGUEL CISNEROS  
GLAUBER BERENSON VEGO  
LLARENA, MURDOCK, LOPEZ & AZIZAD, APC**

**MWH/mc**

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

**REPORT AND RECOMMENDATION  
ON PETITION FOR RECONSIDERATION**

**I**

**INTRODUCTION**

A Findings and Award issued in case number ADJ11129522 on November 2, 2022 in which it was found that Miguel A. Cisneros, age 51 on the date of injury, while employed during the period November 18, 2015 through November 18, 2016, as a cabinet maker, Occupational Group No. 380, at Seal Beach, California, by Manhattan Finish, Inc., sustained injury arising out of and in the course of employment to his right shoulder, right elbow, neck, back, and right knee. Based upon this finding, an award issued for permanent disability of 31%, entitling applicant to 138 weeks of disability indemnity payable at the rate of \$290.00 per week in the total sum of \$40,020.00, less reasonable attorney's fees.

Defendant filed a timely verified petition for reconsideration of the November 2, 2022 Findings and Award. The caption of the petition bears all three of the above case numbers. However it only seeks reconsideration of the Findings and Award issued in case number ADJ11129522. Petitioner contends the WCJ erred by finding injury arising out of and in the course of employment and impairment to applicant's lumbar spine, cervical spine, and right knee based upon the reports of applicants primary treating physician, Sam Tabibian, MD dated June 13, 2017 and December 10, 2018 when defendant contends that the reports are not substantial medical evidence.

**II**

**FACTS**

Mr. Cisneros began employment with Manhattan Finish, Inc. in approximately 1986. (See MOH/SOE dated August 17, 2022, page 2, lines 20 through 21). He started as a carpenter, loader and unloader. He worked eight hours per day and five days per week. His work duties mainly involved cutting plywood, lifting and carrying plywood, and stacking objects. This work required prolonged standing and walking, as well as continuous fine maneuvering of his hands and fingers, and repetitive, bending, stooping, squatting, kneeling, twisting, turning, forceful pushing and pulling, forceful gripping and grasping, reaching to all levels, [torquing], ascending and descending ladders. In 2008 Mr. Cisneros began working as a cabinet maker. In this capacity he

worked eight hours a day and five days a week. His duties entailed fabricating cabinets for commercial and residential use, cutting and measuring materials, using multiple handheld and power tools, assembling the cabinets, applying glue and using clamps to put together the cabinets, installing hardware, stapling and nailing the cabinets, installing screws and bolts, lifting and carrying materials, cleaning his work area, as well as delivering the cabinets, loading and unloading. These activities required prolonged standing and walking, as well as continuous fine maneuvering of his hands and fingers, and repetitive crawling, bending, stooping, squatting, kneeling, twisting, turning, forceful pushing and pulling, forceful gripping and grasping, reaching to all levels, [torquing], ascending and descending stairs/ladders lifting and carrying up to 150 pounds. (See Exhibit 2, Medical Report of Sam Tabibian, MD dated December 10, 2018, page 16).

The arduousness of applicant's work is also described in detail in applicant's Exhibit 21, designated portions of Kaiser records which indicate:

“Origin of injury:

Miguel A Cisneros is a 51-year old male works as a cabinetmaker. Cuts plywood. He cuts with a specific saw that does regular movements where has to bend knee and right hip to cut for cabinet. He works right handed, and the blade of the saw makes it requisite that he bend hip and knee often, goes down on knee and hip 60 times per day. When moving the sheet, they are approximately  $\frac{3}{4}$  inch x 4 feet x 8 feet. Each sheet weighs approximately 80 pounds. Has been doing this for nine years, works 6 days a week at least 8 hours a day.”

Applicant noticed an initial onset of pain in his right hip and knee while pushing a piece of plywood through the saw on October 4, 2014. He subsequently noticed the gradual onset of pain in his neck, back, right shoulder, and right elbow. Mr. Cisneros initially sought treatment at Kaiser for his right thigh pain and subsequently sought treatment with Sam Tabibian, MD on June 13, 2017. He was initially seen by Dr. Tabibian for a specific injury but returned on January 23, 2018 with complaints to the neck, right shoulder, right elbow, mid and low back, and right knee as well as complaints of headaches which the doctor indicated were a result of a work-related cumulative trauma. Defendant sought a PQME evaluation by Joseph Hohl, MD. He initially only evaluated the applicant with regard to the specific injury of October 4, 2014. Dr. Hohl then issued a supplemental report dated August 13, 2018 in which he indicated that he was unaware of the cumulative trauma claim to applicant's upper

extremities, neck, and back and therefore did not evaluate applicant in that regard. Dr. Hohl subsequently re-evaluated the applicant on February 21, 2019, but his causation discussion was limited to applicant's right hip problem. Defendant then took Dr. Hohl's deposition on October 17, 2019. At his deposition Dr. Hohl testified that applicant's right knee and back problems were caused by extra stress which he attributed to an abnormal gait pattern. He attributed the abnormal gait pattern to nonindustrial avascular necrosis of applicant's right hip. He did not discuss causation of applicant's right shoulder, right elbow, or neck complaints.

The matter proceeded to trial and a findings and award issued on November 2, 2022. It is from this findings and award that the defendant has filed a timely verified petition for reconsideration.

### III

#### DISCUSSION

##### A PTP Report of Sam Tabibian, M.D. is Substantial Medical Evidence of Applicants Cumulative Trauma Injury

Defendant argues that Dr. Tabibian's reports are not substantial medical evidence because he did not review the Kaiser records which discuss the diagnosis of avascular necrosis, or several of the reports by Dr. Hohl which also discuss avascular necrosis. This argument fails to take into consideration the fact that Dr. Tabibian referred Mr. Cisneros for a consultation by Brian Dierckman, M.D. He then reviewed Dr. Dierckman's report dated May 14, 2018 in which Dr. Dierckman diagnosed the applicant with end stage degenerative joint disease with avascular necrosis with head collapse. Dr. Tabibian also reviewed a September 9, 2017 MRI study of applicant's right hip. His summary of the diagnostic study includes the following:

“MRI Study Report of the Right Hip without Contrast, from San Fernando Valley Advanced Imaging Center, signed by Robert Lee, M.D., dated September 9, 2017.

Impression:

- 1) Extensive right hip osteoarthritis including full-thickness chondral denudation with joint space loss, subchondral cysts/edema and collapse of the anterosuperior femoral head. Given cyst/edema and sclerosis of the femoral head with collapse, differential considerations include posttraumatic

osteoarthritis. Underlying AVN may likewise be obscured given signal abnormality and may be followed for stability.”

Thus, based upon his review of the May 14, 2018 report by Dr. Dierckman and his review of the September 9, 2017 MRI report Dr. Tabibian was clearly aware of the diagnosis of right hip avascular necrosis. As indicated on page 11 of his December 10, 2018 report Dr. Tabibian was also aware of the fact that Mr. Cisneros had an abnormal gait noting that “the patient ambulates with a cane favoring the right lower extremity”. (Exhibit 2, Medical Report of Sam Tabibian, MD dated December 10, 2018, page 11). However, Dr. Tabibian also had a very detailed understanding of the arduousness of the applicants work at Manhattan Finish as outlined in the last two full paragraphs on page 16 of his December 10, 2018 report. On page 17 he went on to explain that:

“With regard to the patient's neck, low back, right shoulder, and right elbow disability, this is believed to be 100% attributable to the work-related continuous trauma extending through November 18, 2016 while he was employed as a cabinet maker for Manhattan Finish, Inc. in direct relationship to performing his regular duties as described above.” (Exhibit 2, Medical Report of Sam Tabibian, MD dated December 10, 2018, page 17).

In contrast, the reporting by PQME Joseph Hohl demonstrates that he lacks an understanding of the arduousness of the work Mr. Cisneros performed at Manhattan Finish. In his supplemental report dated August 13, 2018 (Defendants Exhibit B) Dr. Hohl indicated that he was unaware of the cumulative trauma claim to applicant’s upper extremities neck and back and therefore did not evaluate applicant in that regard. He then reevaluated the applicant on February 21, 2019, ostensibly to address the cumulative trauma claim. His brief description of applicants work activities is located on page 3 of the report and merely indicates that the applicant worked “. . . as a cabinet maker for many years . . . .” He notes that applicant claimed a specific injury in 2014 “. . . when he was lifting a sheet of plywood . . . .” He then indicates that “[t]here is no other specific injury other than vigorous nature of his work of building cabinets.” (See Exhibit C, Medical Report of Joseph Hohl, MD dated February 21, 2019, page 3). In fact, there is even an indication that Dr. Hohl trivialized applicant’s arduous work duties. Dr. Hohl issued a report dated July 7, 2019 in which he answered interrogatories tendered by defense counsel. One of the interrogatories pertained to applicant’s right hip specific injury claim. Dr. Hohl’s response was that “as related to me the applicant was cutting a piece of wood with a table saw and apparently, the wood shifted and he felt a twinge in his right hip. The amount of stress on the hip with such an incident would be minimal and I cannot relate it to the entirety of his complaints.” (Exhibit D, Medical Report of Joseph Hohl, MD dated July 7, 2019, page

2). The reporting by PQME Joseph Hohl was not found to constitute substantial medical evidence. As indicated above, the reporting by Dr. Tabibian reveals that he was aware of applicant's right hip avascular necrosis diagnosis as well as applicant's abnormal gait, notwithstanding the fact that he did not review Dr. Hohl's reporting or the records of Kaiser. Therefore, this judge did not find that the substantiality of Dr. Tabibian's reporting was undermined.

**IV**  
**RECOMMENDATION**

It is respectfully recommended the defendant's petition for reconsideration be denied.

DATE: December 5, 2022

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

**Filed and Served by mail on counsel  
and parties as shown below.**

On: December 6, 2022  
By: Louisa Padlan

