

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

GUADALUPE VAZQUEZ, *Applicant*

vs.

**CEDARS-SINAI MEDICAL CENTER;
BETA HEALTHCARE GROUP ROSEVILLE, *Defendants***

**Adjudication Number: ADJ18201897; ADJ18355564
Los Angeles District Office**

**OPINION AND ORDER
DENYING PETITIONS FOR
RECONSIDERATION AND
DISQUALIFICATION**

Defendant filed a Notice of Petition and Petition for Reconsideration on April 1, 2025, a Notice of Petition and Petition for Disqualification on April 18, 2025, and a Petition for Leave to File Supplemental Pleading in Reply to WCJ's Report and Recommendation and proposed Reply to Report on April 21, 2025. We accept that request to file supplemental pleading pursuant to our authority. (Cal. Code Regs., tit. 8, § 10964.) We have considered the allegations in defendant's petitions and the contents of the Opinion on Decision and Reports and Recommendation 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 Reports and the Opinion on Decision, which we adopt and incorporate as quoted in the attachments to this decision, and for the reasons stated below, we will deny reconsideration and deny the request for disqualification.

I.

Preliminarily, we note that former Labor Code¹ section 5909 provided that a petition for reconsideration was deemed denied unless the Appeals Board acted on the petition within 60 days from the date of filing. (Lab. Code, § 5909.) Effective July 2, 2024, section 5909 was amended to state in relevant part that:

¹ All further statutory references are to the Labor Code, unless otherwise noted.

(a) A petition for reconsideration is deemed to have been denied by the appeals board unless it is acted upon within 60 days from the date a trial judge transmits a case to the appeals board.

(b)

(1) When a trial judge transmits a case to the appeals board, the trial judge shall provide notice to the parties of the case and the appeals board.

(2) For purposes of paragraph (1), service of the accompanying report, pursuant to subdivision (b) of Section 5900, shall constitute providing notice.

Under section 5909(a), the Appeals Board must act on a petition for reconsideration within 60 days of transmission of the case to the Appeals Board. Transmission is reflected in Events in the Electronic Adjudication Management System (EAMS). Specifically, in Case Events, under Event Description is the phrase “Sent to Recon” and under Additional Information is the phrase “The case is sent to the Recon board.”

Here, according to Events, the case was transmitted to the Appeals Board on April 4, 2025 and 60 days from the date of transmission is June 3, 2025. This decision is issued by or on Tuesday, June 3, 2025, so that we have timely acted on the petition as required by Labor Code section 5909(a).

Section 5909(b)(1) requires that the parties and the Appeals Board be provided with notice of transmission of the case. Transmission of the case to the Appeals Board in EAMS provides notice to the Appeals Board. Thus, the requirement in subdivision (1) ensures that the parties are notified of the accurate date for the commencement of the 60-day period for the Appeals Board to act on a petition. Section 5909(b)(2) provides that service of the Report and Recommendation shall be notice of transmission.

Here, according to the proof of service for the Report and Recommendation by the workers’ compensation administrative law judge, the Report was served on April 4, 2025, and the case was transmitted to the Appeals Board on April 4, 2025. Service of the Report and transmission of the case to the Appeals Board occurred on the same day. Thus, we conclude that the parties were provided with the notice of transmission required by section 5909(b)(1) because service of the Report in compliance with section 5909(b)(2) provided them with actual notice as to the commencement of the 60-day period on April 4, 2025.

II.

Next, we address the issue of timeliness. There are 30 days allowed within which to file a petition for reconsideration from a “final” decision that has been served by mail upon an address outside California. (Lab. Code, §§ 5900(a), 5903; Cal. Code Regs., tit. 8, § 10605(a)(1).) This time limit is extended to the next business day if the last day for filing falls on a weekend or holiday. (Cal. Code Regs., tit. 8, § 10600.) To be timely, however, a petition for reconsideration must be filed with (i.e., received by) the WCAB within the time allowed; proof that the petition was mailed (posted) within that period is insufficient. (Cal. Code Regs., tit. 8, §§ 10940(a), 10615(b).)

This time limit is jurisdictional and, therefore, the Appeals Board has no authority to consider or act upon an untimely petition for reconsideration. (*Maranian v. Workers’ Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1076 [65 Cal.Comp.Cases 650]; *Rymer v. Hagler* (1989) 211 Cal.App.3d 1171, 1182; *Scott v. Workers’ Comp. Appeals Bd.* (1981) 122 Cal.App.3d 979, 984 [46 Cal.Comp.Cases 1008]; *U.S. Pipe & Foundry Co. v. Industrial Acc. Com.* (*Hinojoza*) (1962) 201 Cal.App.2d 545, 549 [27 Cal.Comp.Cases 73].)

In this case, the WCJ issued the Joint Findings and Award and Orders on March 4, 2025, serving defendant outside of California. Based on the authority cited above, defendant had until April 3, 2025 to seek reconsideration in a timely manner. Therefore, the Petition for Reconsideration filed on April 1, 2025 is timely.

III.

We now address defendant’s Petition for Disqualification. Section 5311 provides that a party may seek to disqualify a WCJ upon any one or more of the grounds specified in Code of Civil Procedure section 641. (Lab. Code, § 5311; see also Code Civ. Proc., § 641.) Among the grounds for disqualification under section 641 are that the WCJ has “formed or expressed an unqualified opinion or belief as to the merits of the action” (Code Civ. Proc., § 641(f)) or that the WCJ has demonstrated “[t]he existence of a state of mind ... evincing enmity against or bias toward either party.” (Code Civ. Proc., § 641(g)).

Under WCAB Rule 10960, proceedings to disqualify a WCJ “shall be initiated by the filing of a petition for disqualification supported by an affidavit or declaration under penalty of perjury stating in detail *facts* establishing one or more of the grounds for disqualification” (Cal. Code Regs., tit. 8, § 10960, *italics added*.) It has long been recognized that “[t]he allegations in a

statement charging bias and prejudice of a judge must set forth specifically the *facts* on which the charge is predicated,” that “[a] *statement containing nothing but conclusions and setting forth no facts* constituting a ground for disqualification may be ignored,” and that “[w]here no *facts* are set forth in the statement *there is no issue of fact to be determined.*” (*Mackie v. Dyer* (1957) 154 Cal.App.2d 395, 399, italics added.)

Furthermore, even if detailed and verified allegations of fact have been made, it is settled law that a WCJ is not subject to disqualification under section 641(f) if, prior to rendering a decision, the WCJ expresses an opinion regarding a legal or factual issue but the petitioner fails to show that this opinion is a fixed one that could not be changed upon the production of evidence and the presentation of arguments at or after further hearing. (*Taylor v. Industrial Acc. Com. (Thomas)* (1940) 38 Cal.App.2d 75, 79-80 [5 Cal.Comp.Cases 61].) Additionally, even if the WCJ expresses an unqualified opinion on the merits, the WCJ is not subject to disqualification under section 641(f) if that opinion is “based upon the evidence then before [the WCJ] and upon the [WCJ’s] conception of the law as applied to such evidence.” (*Id.*; cf. *Kreling v. Superior Court* (1944) 25 Cal.2d 305, 312 [“It is [a judge’s] duty to consider and pass upon the evidence produced before him, and when the evidence is in conflict, to resolve that conflict in favor of the party whose evidence outweighs that of the opposing party.”].)

Also, it is “well settled ... that the expressions of opinion uttered by a judge, in what he conceives to be a discharge of his official duties, are not evidence of bias or prejudice” under section 641(g) (*Kreling, supra*, 25 Cal.2d at pp. 310-311; accord: *Mackie, supra*, 154 Cal.App.2d at p. 400) and that “[e]rroneous rulings against a litigant, even when numerous and continuous, form no ground for a charge of bias or prejudice, especially when they are subject to review” (*McEwen v. Occidental Life Ins. Co.* (1916) 172 Cal. 6, 11; accord: *Mackie, supra*, 154 Cal.App.2d at p. 400.) Similarly, “when the state of mind of the trial judge appears to be adverse to one of the parties but is based upon actual observance of the witnesses and the evidence given during the trial of an action, it does not amount to that prejudice against a litigant which disqualifies” the judge under section 641(g). (*Kreling, supra*, 25 Cal.2d at p. 312; see also *Moulton Niguel Water Dist. v. Colombo* (2003) 111 Cal.App.4th 1210, 1219 [“When making a ruling, a judge interprets the evidence, weighs credibility, and makes findings. In doing so, the judge necessarily makes and expresses determinations in favor of and against parties. How could it be otherwise? We will not

hold that every statement a judge makes to explain his or her reasons for ruling against a party constitutes evidence of judicial bias.”].)

Under no circumstances may a party’s unilateral and subjective perception of bias afford a basis for disqualification. (*Haas v. County of San Bernardino* (2002) 27 Cal.4th 1017, 1034; *Robbins v. Sharp Healthcare* (2006) 71 Cal.Comp.Cases 1291, 1310-1311 (Significant Panel Decision).)

Finally, WCAB Rule 10960 provides that when the WCJ and “the grounds for disqualification” are known, a petition for disqualification “shall be filed not more than 10 days after service of notice of hearing or after grounds for disqualification are known.”

Here, as discussed in the WCJ’s Report, the petition for disqualification does not set forth facts, declared under penalty of perjury, that are sufficient to establish disqualification pursuant to Labor Code section 5311, WCAB Rule 10960, and Code of Civil Procedure section 641(f) and/or (g). Accordingly, the petition will be denied.

IV.

Finally, we turn to the merits and begin by noting that the employee bears the initial burden of proving injury arising out of and in the course of employment (AOE/COE) by a preponderance of the evidence. (Lab. Code, § 5705; *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).) In this case, applicant met that burden by presenting the credible testimony, her own and that of defendant’s witness, that she sustained industrial injury on March 14, 2023. (Minutes of Hearing and Summary of Evidence (MOH/SOE), 2/3/25, at pp. 5:15-16; 15:22-23; 6:23-25; 7:4-10; 9:1-3. The WCJ found all the witnesses, including defendant’s witness, to be credible and that their testimony supported the finding that applicant sustained industrial injury on March 14, 2023. We have given the WCJ’s credibility determinations great weight because the WCJ had the opportunity to observe the demeanor of the witnesses. (*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 determinations. (*Id.*) In addition, documentary evidence supports the finding that applicant’s injury occurred on March 14, 2025: defendant’s audit log, dated Marcy 14, 2023 (defendant’s Exhibit B); the summary of Nurse Practitioner Amanda Sibley’s Doctor’s 1st Report of Occupational Illness or Injury, dated Marcy 15, 2023, as reviewed by panel qualified medical evaluator (PQME) Peter

Laimins, M.D., (Joint Exhibit 1, at p. 8); and the Cedars Sinai Incident Report, dated March 15, 2023. (Joint Exhibit 4, at pp. 1-3.)

We are not persuaded by defendant's claim of a due process violation regarding trial on the issue of the date of injury "on or about March 15, 2023." Section 5709 states that "No informality in any proceeding or in the manner of taking testimony shall invalidate any order, decision, award, or rule made and filed as specified in this division..." (Lab. Code, § 5709.) Necessarily, failure to comply with the rules as to details is not jurisdictional. (*Rubio v. Workers' Comp. Appeals Bd.* (1985) 165 Cal.App.3d 196, 200–201; see Cal. Code Regs., tit. 8, § 10490.) "[I]nformality of pleading in proceedings before the Board is recognized and courts have repeatedly rejected pleading technicalities as grounds for depriving the Board of jurisdiction. (citation)" (*Rubio, supra*, 165 Cal.App.3d at p. 200; see Cal. Code Regs., tit. 8, § 10617(a)(2) [an application for adjudication of claim "shall not be rejected for filing" because it "contains inaccurate information..."].).) "If a party is disadvantaged by the insufficiency of a pleading, the remedy is to grant that party a reasonable continuance to permit it to prepare its case or defense. (citations)" (*Rubio, supra*, 165 Cal.App.3d at p. 200–201.) Consequently, workers' compensation "[p]leadings may be amended by the Workers' Compensation Appeals Board to conform to proof." (Cal. Code Regs., tit. 8, § 10517.)

Applicant's amended application alleging a March 15, 2023 date of injury, as opposed to a March 14, 2025 date of injury, does not allege a new and different cause of action. (See *Bland v. Workmen's Comp. App. Bd.* (1970) 3 Cal.3d 324, 330–331; *Rubio v. Workers' Comp. Appeals Bd.* (1985) 165 Cal.App.3d 196, 200; see also § 5303; *Chavez v. Workmen's Comp. Appeals Bd.* (1973) 31 Cal.App.3d 5, 14; *Beveridge v. Industrial Acc. Com.* (1959) 175 Cal.App.2d 592, 598.) Here, given the documentary evidence that the injury occurred on March 14, 2023, it does not appear that defendant was in any way disadvantaged or prejudiced due to applicant's uncertainty regarding a one-day difference in the alleged dates. Defendant presented the testimony of its own witness which corroborated the March 14, 2023 date of injury and presented surveillance video taken on March 14, 2023. Defendant did not make any offer of proof, at trial or in its Petition for Reconsideration, as to what evidence it was not able to present or prejudice it suffered.

For the foregoing reasons,

IT IS ORDERED that the Petitions for Reconsideration and Disqualification are **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER

/s/ PAUL KELLY, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

JUNE 3, 2025

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

**GUADALUPE VAZQUEZ
LAW OFFICE OF JOHN HERNANDEZ
CDLP LAW**

PAG/ bp

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

**REPORT AND RECOMMENDATION ON DEFENDANT'S
PETITION FOR RECONSIDERATION**

**I
INTRODUCTION**

- | | |
|---|--|
| 1. Applicant's Occupation | Housekeeper |
| Date of Injury | March 14, 2023 |
| Parts of Body: | Lumbar spine, cervical spine, left shoulder,
bilateral knees, head, and brain |
| 2. Identity of Petitioner | Defendant Cedar-Sinai Medial Center
filed the Petition. |
| Timeliness: | The petition is UNTIMELY having been
received by the WCAB on April 1, 2025. |
| Verification: | The Petition is verified. |
| 3. Date of Findings of Fact | March 4, 2025 |
| 4. Petitioners' contentions: | |
| Defendant contends: | |
| (a) the Court acted without or in excess of its powers. | |

**II
FACTS**

Applicant, **GUADALUPE VAZQUEZ**, born [...], filed two Applications for Adjudication of Claim against her employer Cedar-Sinai Medical Center. The first claim alleges applicant sustained a specific injury to her head, brain, lumbar spine, bilateral shoulders, and bilateral knees while employed as a housekeeper by Cedars-Sinai Medical Center when she tripped over screws sticking out of the concrete floor and fell to the ground on March 14, 2023; the matter was assigned case number (ADJ18201897). The second claim alleges applicant sustained industrial cumulative trauma injury to her head, brain, lumbar spine, cervical spine, left shoulder, bilateral knees, head, and brain spine, bilateral shoulders, bilateral shoulders, bilateral knees, bilateral hands, and bilateral fingers while employed as a housekeeper by Cedars-Sinai Medical Center during the period September 28, 2010 through September 28, 2023; the matter was assigned case number (ADJ18355564). Pursuant to the parties' stipulation the employer was permissibly self-insured adjusted by Beta Healthcare Roseville.

During discovery and for reasons unknown to the undersigned WCJ, applicant's prior attorney amended the claim alleging a specific March 14, 2023 date of injury to reflect a specific March 15, 2023 date of injury.

At Trial applicant credibly testified she reported the March 14, 2023 fall to her supervisor Travis Maddox on the same day it occurred and was offered medical treatment, but was not examined until the following day on March 15, 2023. At Trial applicant's supervisor Mr. Travis Maddox credibly testified applicant reported to him that she tripped over screws sticking out of

the concrete floor as she exited the building at the end of her shift on March 14, 2023. Mr. Maddox credibly testified he believed applicant was reporting a legitimate work related injury and that he personally stepped outside the building to inspect the area where applicant fell and saw the screws sticking out of the concrete floor. Mr. Maddox credibly testified he had no reason to believe applicant was being untruthful when reporting her injury and testified he believed applicant's reporting of her injury was one-hundred percent truthful.

Defendant failed to provide any evidence to rebut applicant's testimony or the testimony of applicant's supervisor. Instead defendant argued their surveillance video shows applicant walking to her car on March 14, 2023 without incident; however, at Trial both the applicant and applicant's supervisor Mr. Travis Maddox credibly testified the surveillance video shown at Trial did not show the area where applicant reported she fell. After reviewing all the surveillance video submitted at Trial, the applicant's supervisor Mr. Travis Maddox credibly testified the area he inspected following applicant's report of injury was not visible in the surveillance video submitted.

Per the reporting of Panel QME Dr. Laimins applicant was examined by Nurse Practitioner Amanda J. Sibley on March 15, 2023 with complaints of left knee pain, left arm pain, and back pain (Joint Exhibit 1, page 8). Also per the reporting of Panel QME Dr. Laimins applicant returned to Nurse Practitioner Amanda J. Sibley for additional treatment on March 20, 2023 and March 29, 2023 with ongoing complaints of pain in her left knee, left arm, left shoulder, left hip, and left ankle/foot (Joint Exhibit 1, page 8). The Court accepted Panel QME Dr. Peter Laimins medical reporting and deposition testimony as substantial medical evidence and accepted his medical finding that applicant sustained an industrially related specific injury to her lumbar spine, cervical spine, left shoulder, and bilateral knees on March 14, 2023. The Court also accepted Panel QME Dr. Peter Laimins medical finding that applicant did not sustain a cumulative trauma injury while employed by Cedars-Sinai Medical Center.

After reviewing all the evidence submitted at Trial including all the surveillance video submitted by defendant, the undersigned WCJ found there is substantial evidence that applicant sustained an industrially related injury on March 14, 2023. The employer's incident report created by applicant's supervisor supports the finding applicant sustained an industrial injury on March 14, 2023 (Defendant's Exhibit B). The medical reporting created by Nurse Practitioner Amanda J. Sibley that was reviewed by Panel QME Dr. Laimins supports the finding applicant sustained an industrial injury on March 14, 2023 (Joint Exhibit 1). The photographs taken by the employer's security officer Derek Cervantes of applicant's bloody scraped knees and of the screws sticking out of the concrete floor where the injury occurred support the finding applicant sustained an industrial injury on March 14, 2023 (Joint Exhibit 4). The credible testimony provided at Trial by applicant and applicant's supervisor Mr. Travis Maddox, support the finding applicant sustained an industrial injury on March 14, 2023.

Despite findings applicant sustained an industrial injury on March 14, 2023 the undersigned WCJ found further development of the medical record is necessary to address the compensability of applicant's alleged head and brain injury. Applicant credibly testified she believes her headaches and eventual need for brain surgery was the result of her March 14, 2023 industrial injury; however, the parties have not yet utilized a Panel QME or AME in the specialty of Neurology. Applicant was examined by Neurologist Dr. David Edelman, but there is no

evidence Dr. Edelman reviewed any of applicant's relevant medical records. Therefore the medical record needs development, parties were Ordered to meet and confer to select a Neurologist AME or submit a joint request for Neurologist Panel QME per Labor Code 4062.2 and 4062.3 to address whether applicant's March 14, 2023 industrially related fall caused injury to her head and brain.

On April 1, 2025 defendant Cedar-Sinai Medical Center filed an untimely Petition for Reconsideration. Reconsideration is sought as to the finding applicant sustained a March 14, 2023 industrial injury. Defendant's Petition for Reconsideration does not include any reference to the companion case ADJ18355564 or to the finding applicant did not sustain a cumulative trauma injury while employed by Cedars-Sinai Medical Center; therefore it appears defendant is not seeking Reconsideration of the finding issued with regards to case ADJ18355564.

III **DISCUSSION:**

A Petition for Reconsideration is the appropriate mechanism to challenge a final order, decision, or award (Labor Code Section 5900). An order that resolves or disposes of the substantive rights and liabilities of those involved in a case is a final order. See *Maranian v. Workers' Compensation Appeals Board* (2000) 81 Cal. App. 4th 1068 [65 Cal. Comp. Cases 650; *Safeway Stores, Inc. v. Workers' Compensation Appeals Board* (Pointer) (1980) 104 Cal. App. 3d 528 {45 Cal. Comp Cases 410}].

In the present matter, defendant argues the undersigned WCJ violated defendant's right to due process by proceeding to Trial on the issue of whether applicant sustained an industrial injury (AOE/COE). Defendant unreasonably argues they should be entitled a Trial on whether applicant sustained an industrial injury on March 14, 2023 and a separate Trial on whether applicant sustained an industrial injury on March 15, 2023 due to applicant's prior attorney amending the specific injury claim to reflect the later date. Defendant ignores the fact applicant is alleging she fell once at work, whether applicant fell on March 14, 2023 or March 15, 2023 the cause of action is the same. To date defendant has failed to provide any evidence to rebut the employer's reporting that applicant fell at work.

* * *

IV
RECOMMENDATION

For the reasons stated above, it is respectfully requested defendant's untimely Petition for Reconsideration be denied. Additionally, the undersigned WCJ request the WCAB reprimand defendant's counsel for improperly attaching documents that were not submitted at Trial or part of the adjudication file to their Petition for Reconsideration in violation of regulation 10945(c)(2).

Date: 04/04/2025

EDGAR MEDINA
Workers' Compensation Judge

Transmitted to the Recon Unit on April 4, 2025.

REPORT AND RECOMMENDATION ON DEFENDANT'S PETITION FOR DISQUALIFICATION

I **INTRODUCTION**

1. Identity of Petitioner: Defendant Cedar-Sinai Medical Center filed the Petition.
2. Date of Findings of Fact: March 4, 2025
3. Date of Report & Recommendation on Petition for Reconsideration: April 4, 2025
4. Defendant contends:
(a) The undersigned WCJ "has formed and expressed an unqualified opinion on the merits of the case, and there is an appearance of bias or enmity toward a party or their counsel."

II **FACTS**

Applicant, **GUADALUPE VAZQUEZ**, born [...], filed two Applications for Adjudication of Claim against her employer Cedar-Sinai Medical Center. The first claim alleges applicant sustained a specific injury to her head, brain, lumbar spine, bilateral shoulders, and bilateral knees while employed as a housekeeper by Cedars-Sinai Medical Center when she tripped over screws sticking out of the concrete floor and fell to the ground on March 14, 2023; the matter was assigned case number ADJ18201897. The second claim alleges applicant sustained industrial cumulative trauma injury to her head, brain, lumbar spine, cervical spine, left shoulder, bilateral knees, head, and brain spine, bilateral shoulders, bilateral shoulders, bilateral knees, bilateral hands, and bilateral fingers while employed as a housekeeper by Cedars-Sinai Medical Center during the period September 28, 2010 through September 28, 2023; the matter was assigned case number ADJI 8355564. Pursuant to the parties' stipulation the employer was permissibly self-insured adjusted by Beta Healthcare Roseville.

During discovery and for reasons unknown to the undersigned WCJ, applicant's prior attorney amended the claim alleging a specific March 14, 2023 date of injury to reflect a specific March 15, 2023 date of injury.

At Trial applicant credibly testified she reported the March 14, 2023 fall to her supervisor Travis Maddox on the same day it occurred and was offered medical treatment, but was not examined until the following day on March 15, 2023. At Trial applicant's supervisor Mr. Travis Maddox credibly testified applicant reported to him that she tripped over screws sticking out of the concrete floor as she exited the building at the end of her shift on March 14, 2023. Mr. Maddox credibly testified he believed applicant was reporting a legitimate work related injury and that he personally stepped outside the building to inspect the area where applicant fell and saw the screws sticking out of the concrete floor. Mr. Maddox credibly testified he had no reason to believe applicant was being untruthful when reporting her injury and testified he believed applicant's reporting of her injury was one-hundred percent truthful.

Defendant failed to provide any evidence to rebut applicant's testimony or the testimony of applicant's supervisor. Instead defendant argued their surveillance video shows applicant walking

to her car on March 14, 2023 without incident; however, at Trial both the applicant and applicant's supervisor Mr. Travis Maddox credibly testified the surveillance video shown at Trial did not show the area where applicant reported she fell. After reviewing all the surveillance video submitted at Trial, the applicant's supervisor Mr. Travis Maddox credibly testified the area he inspected following applicant's report of injury was not visible in the surveillance video submitted.

Per the reporting of Panel QME Dr. Laimins applicant was examined by Nurse Practitioner Amanda J. Sibley on March 15, 2023 with complaints of left knee pain, left arm pain, and back pain (Joint Exhibit 1, page 8). Also per the reporting of Panel QME Dr. Laimins applicant returned to Nurse Practitioner Amanda J. Sibley for additional treatment on March 20, 2023 and March 29, 2023 with ongoing complaints of pain in her left knee, left arm, left shoulder, left hip, and left ankle/foot (Joint Exhibit 1, page 8). The undersigned WCJ accepted Panel QME Dr. Peter Laimins medical reporting and deposition testimony as substantial medical evidence and accepted his medical finding that applicant sustained an industrially related specific injury to her lumbar spine, cervical spine, left shoulder, and bilateral knees on March 14, 2023. The undersigned WCJ also accepted Panel QME Dr. Peter Laimins medical finding that applicant did not sustain a cumulative trauma injury while employed by Cedars-Sinai Medical Center.

After reviewing all the evidence submitted at Trial including all surveillance video submitted by defendant, the undersigned WCJ found there is substantial evidence that applicant sustained an industrially related injury on March 14, 2023. The employer's incident report created by applicant's supervisor supports the finding applicant sustained an industrial injury on March 14, 2023 (Defendant's Exhibit B). The medical reporting created by Nurse Practitioner Amanda J. Sibley that was reviewed by Panel QME Dr. Laimins supports the finding applicant sustained an industrial injury on March 14, 2023 (Joint Exhibit 1). The photographs taken by the employer's security officer Derek Cervantes of applicant's bloody scraped knees and of the screws sticking out of the concrete floor where the injury occurred support the finding applicant sustained an industrial injury on March 14, 2023 (Joint Exhibit 4). The credible testimony provided at Trial by applicant and applicant's supervisor Mr. Travis Maddox, support the finding applicant sustained an industrial injury on March 14, 2023.

After finding applicant sustained an industrial injury on March 14, 2023 the undersigned WCJ found further development of the medical record is necessary to address the compensability of applicant's alleged head and brain injury. Applicant credibly testified she believes her headaches and eventual need for brain surgery was the result of her March 14, 2023 industrial injury; however, the parties have not yet utilized a Panel QME or AME in the specialty of Neurology. Applicant was examined by Neurologist Dr. David Edelman, but there is no evidence Dr. Edelman reviewed any of applicant's relevant medical records. Therefore the medical record needs development, parties were Ordered to meet and confer to select a Neurologist AME or submit a joint request for Neurologist Panel QME per Labor Code 4062.2 and 4062.3 to address whether applicant's March 14, 2023 industrially related fall caused injury to her head and brain.

On April 1, 2025 defendant Cedar-Sinai Medical Center filed an untimely Petition for Reconsideration. Reconsideration is sought as to the finding applicant sustained a March 14, 2023 industrial injury. Defendant's Petition for Reconsideration does not include any reference to the companion case ADJI 8355564 or to the finding applicant did not sustain a cumulative trauma

injury while employed by Cedars-Sinai Medical Center; therefore it appears defendant does not seek Reconsideration of the finding issued with regards to case ADJ18355564.

On April 4, 2025 the undersigned WCJ issued a Report and Recommendation on defendant's Petition for Reconsideration respectfully requesting defendant's untimely Petition for Reconsideration be denied, and the WCAB reprimand defendant's counsel for improperly attaching documents that were not submitted at Trial or part of the adjudication file to their Petition for Reconsideration in violation of regulation 10945(c)(2). On April 18, 2025 after receiving the Report and Recommendation on defendant's Petition for Reconsideration defendant's counsel filed the current Petition for Disqualification of the undersigned WCJ.

III **DISCUSSION:**

Pursuant to regulation § 10960 proceedings to disqualify a workers' compensation judge under Labor Code section 5311 shall be initiated by the filing of a petition for disqualification supported by an affidavit or declaration under penalty of perjury stating in detail facts establishing one or more of the grounds for disqualification specified in section 641 of the Code of Civil Procedure. Defendant's Petition for disqualification asserts the undersigned WCJ has formed or expressed an unqualified opinion or belief as to the merits of the action; and alleges the existence of a state of mind in the undersigned WCJ evincing enmity against or bias toward defendant's counsel such that disqualification is requested per California Code of Code of Civil Procedure §641 (f) and (g). The Supreme Court of California has held a petition for disqualification "alleging judicial bias or prejudice must be presented at the earliest practicable opportunity after discovery of the facts constituting the ground for disqualification" (North American Title Co. v. Superior Court, 17 Cal. 5th 155).

In the present matter, defendant's petition for disqualification appears to be filed in bad faith and solely intended to cause further unnecessary delay in the applicant receiving benefits for an industrial injury that per the employer's own reporting and credible employer witness occurred on March 14, 2023. By way of background the parties first appeared before the undersigned WCJ at Trial Hearing on November 26, 2024. The matter was continued to Trial Hearing on January 6, 2025 and continued again to a Trial Hearing on February 3, 2025 where witness testimony was taken on the issue of whether applicant sustained an industrial injury. At Trial the parties were allowed to question the witnesses present and submit exhibits. Testimony of the applicant's supervisor and the employer's own reporting support a finding applicant sustained an industrial injury on March 14, 2023, but defendant refused to concede the issue despite submitting no evidence to rebut the employer's own reporting. Defendant's counsel repeatedly alleged the employer had surveillance video of the area where applicant reportedly fell; however, no surveillance video of the area where applicant reportedly fell was submitted at Trial.

Based upon a review of the entire record the undersigned WCJ issued the finding applicant, Guadalupe Vazquez, born [...], while employed on March 14, 2023, as a housekeeper, Occupational Group Number 340, at Los Angeles, California, by Cedars-Sinai Medical Center sustained injury to her lumbar spine, cervical spine, left shoulder, and bilateral knees.

In response to the finding of industrial injury defendant filed a Petition for Reconsideration arguing the undersigned WCJ violated defendant's right to due process by proceeding to Trial on the issue of whether applicant sustained an industrial injury on March 14, 2025. Defendant unreasonably argues they should be entitled a Trial on whether applicant sustained an industrial injury on March 14, 2023 and a separate and distinct Trial on the issue of whether applicant sustained an industrial injury on March 15, 2023 due to applicant's prior attorney amending the specific injury claim to reflect the later date. Defendant ignores the fact applicant is alleging she fell at work once, whether applicant fell on March 14, 2023 or March 15, 2023 the cause of action remains the same. Defendant filed the current petition for disqualification after the matter had been submitted at Trial and after defendant received the undersigned WCJ's report and recommendation on defendant's petition for reconsideration respectfully requesting defendant's untimely petition for reconsideration be denied.

The undersigned WCJ concedes the reasons why applicant's prior counsel amended the date of injury from March 14, 2023 to March 15, 2024 are unknown. However, it remains the undersigned WCJ's opinion that the email sent by defense counsel Jia Kun Lei (SBN#299684) on January 9, 2025 and improperly attached to his Petition for Reconsideration contains misrepresentations of the facts. The email states, surveillance videos cover the applicant's entire movements - from where she allegedly fell all the way to her getting in to her car and driving away. However, defendant submitted only a few minutes of surveillance video and repeatedly asserted defendants had no other surveillance videos in their possession. No surveillance videos of the applicant exiting the doorway where she reportedly fell was provided at Trial just as no surveillance videos of applicant driving away was submitted at Trial. Defense counsel Jia Kun Lei (SBN#299684) assertions that defendant had more surveillance video may be labeled a litigation tactic, but it was misleading.

Defendant's Petition for disqualification argues the undersigned WCJ "suggested sanctions" may be imposed against defendant prior to reviewing all the evidence. It is true that prior to going on the record the undersigned WCJ briefly reviewed all exhibits in EAMS to confirm the exhibits were what they purport to be and were properly filed. While reviewing defendant's exhibits the undersigned WCJ questioned why defendant denied the specific injury claim in light of the employer's own reporting of injury. Defendant's counsel Jia Kun Lei (SBN#299684) was unable to articulate a good faith basis for denying the specific injury claim, and instead relied on circumstantial evidence and speculation to support the ongoing denial. Defendant's counsel Jia Kun Lei (SBN#299684) went so far as to argue defendant does not dispute applicant fell, but disputes applicant fell at work because she wasn't seen limping to her car following the alleged injury. In response to counsel's unsupported speculation the undersigned WCJ reminded defendant's counsel that defendants have a duty to investigate claims and the ongoing denial of a claim for benefits must be supported by a good faith basis and not pure speculation and conjecture. The undersigned WCJ explained to the parties that while the undersigned WCJ has not yet reviewed all the evidence, failing to submit any evidence to rebut the employer's own reporting an industrial injury occurred may result in sanctions and a findings of bad faith denial against defendants. The undersigned WCJ rudimentary explanation of the workers' compensation system and Labor Code 5813 to defendant's counsel is not grounds for disqualification.

Defendant's counsel Jia Kun Lei (SBN#299684) argument that the undersigned WCJ assumed the role of advocate for applicant is not supported by the record and is another frivolous attempt to delay applicant's receipt of benefits. The undersigned WCJ reviewed the surveillance video with applicant and applicant's supervisor, and as is the right of the WCJ asked the applicant and applicant's supervisor whether the surveillance video showed the area where applicant reported she fell. At no point were any witnesses instructed not to answer defendant's questions at Trial.

Lastly, defendant's counsel Jia Kun Lei (SBN#299684) request for 15 minute break to move his car was denied because it appeared counsel Jia Kun Lei (SBN#299684) intended to further delay submission of the matter by leaving the courtroom when all present witnesses had already testified and the matter was ready for submission. While the undersigned WCJ is curious as to which downtown Los Angeles parking lot closes at 4:00 PM; the undersigned WCJ's denial of counsel's request for a break to move his car does not show the undersigned WCJ has some enmity against or bias toward defendant's counsel such that disqualification is appropriate.

Throughout the course of litigation of this matter before the undersigned WCJ, there was no expression of bias against the defendant or defendant's counsel, or in favor of the applicant or applicant's counsel. The undersigned WCJ considered all evidence submitted and did not make a decision in this case until all evidence was submitted by the parties, reviewed by the undersigned WCJ and came to the conclusions strictly based on the evidence admitted at the time of trial. This judge strictly followed the mandate of Title 8 Cal. Code of Regulations Section 9721.13(b).

IV **RECOMMENDATION**

For the reasons stated above, it is respectfully requested defendant's petition for disqualification be denied. Additionally, the undersigned WCJ request the WCAB reprimand defendant's for their repeated bad faith actions that include issuing a denial of claim not supported by the employer's own reporting an industrial injury occurred, filing an untimely Petition for Reconsideration, and filing the current petition for disqualification for the sole purpose of causing further unnecessary delay of benefits to the applicant.

Date: 04/22/2025

EDGAR MEDINA
Workers' Compensation
Administrative Law Judge

Date Transmitted to the Recon Unit: April 22, 2025

OPINION ON DECISION

AOE/COE:

The burden of proving industrial causation of injury my rests with the applicant, and the applicant must carry this burden 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 §§ 3600(a) 3202.5.). In the present case, applicant filed an Application for Adjudication of Claim alleging she sustained a cumulative trauma injury to her head brain, lumbar spine, bilateral boulders, and bilateral knees while employed as a housekeeper by Cedars-Sinai Medical Center from September 28, 2010 through September 28, 2023 (ADJ18355564). Applicant also filed an Application for Adjudication of Claim alleging she sustained a specific injury to her head, brain, lumbar spine bilateral shoulders, and bilateral knees while employed as a housekeeper by Cedars-Sinai Medical Center when she tripped over screws sticking out of the concrete floor and fell to the ground on March 14, 2023 (ADJ18201897).

Applicant credibly testified at Trial that she reported the March 14, 2023 fall to her supervisor Travis Maddox on the same day it occurred and received treatment for her injury the following day. Applicant's supervisor Mr. Travis Maddox credibly testified at Trial that applicant reported to him that she tripped over screws sticking out of the concrete floor as she exited the building at the end of her shift on March 14, 2023. Applicant's supervisor Mr. Maddox credibly testified at Trial that he believed applicant was reporting a legitimate work related injury. Mr. Maddox credibly testified at Trial that he personally stepped outside the building to inspect the area where applicant fell and saw the screws sticking out of the concrete floor. Mr. Maddox credibly testified at Trial that he had no reason to believe applicant was being untruthful when reporting her injury and testified he believed applicant's reporting of her injury was one-hundred percent truthful.

Applicant credibly testified she was offered medical treatment on March 14, 2023, but was not examined until the following day on March 15, 2023. Pursuant to the reporting of Panel QME Dr. Laimins applicant was examined by Nurse Practitioner Amanda J. Sibley on March 15, 2023 with complaints of left knee pain, left arm pain, and back pain (Joint Exhibit 1, page 8). Also per the reporting of Panel QME Dr. Laimins applicant returned to Nurse Practitioner Amanda J. Sibley for additional treatment on March 20, 2023 and March 29, 2023 with ongoing complaints of pain in her left knee, left arm, left shoulder, left hip, and left ankle/foot (Joint Exhibit 1, page 8).

The Court accepts Panel QME Dr. Peter Laimins medical reporting and deposition testimony as substantial medical evidence and accepts his medical finding that applicant sustained an industrially related specific injury to her lumbar spine, cervical spine, left shoulder, and bilateral knees on March 14, 2023.

The Court accepts Panel QME Dr. Peter Laimins medical reporting and deposition testimony as substantial medical evidence and accepts his medical finding that applicant did not sustain a cumulative trauma injury. Additionally, the applicant's testimony at Trial that she had no physical complaints prior to her March 14, 2023 industrial injury supports a finding that she did not sustain a cumulative trauma injury while employed by Cedars-Sinai Medical Center.

The Court will not speculate as to why applicant's prior attorney amended the application for the March 14, 2023 injury to reflect a later date of injury. In the present case there is substantial

evidence in the form of an incident report created by applicant's supervisor (Defendant's Exhibit B), medical reporting created by Nurse Practitioner Amanda J. Sibley that was reviewed by Panel QME Dr. Laimins (Joint Exhibit 1), photographs taken by the employer's security officer Derek Cervantes of applicant's scraped knees and of the screws sticking out of the concrete floor where the injury occurred (Joint Exhibit 4), and credible witness testimony from the applicant and applicant's supervisor Mr. Travis Maddox, all of which support the correct date of injury is March 14, 2023.

At Trial defendant argued their surveillance video shows applicant walking to her car on March 14, 2023 without incident; however, both the applicant and applicant's supervisor Mr. Travis Maddox credibly testified the surveillance video shown at Trial did not include video of the area where applicant reported she fell. Defendant's Notice of Denial of Workers' Compensation Benefits issued June 12, 2023 indicting "there is no evidence establishing that you sustained an industrial injury on March 14, 2023" is not supported by the employer's own reporting or the evidence submitted at Trial, and appears to have been issued in bad faith solely intended to cause unnecessary delay.

DEVELOPMENT OF THE RECORD:

With regards to applicant's head and brain complaints the record does not contain substantial evidence to properly address whether applicant's head and brain complaints, including the need for her recent brain surgery, are the result of her March 14, 2023 industrial injury. The Court 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 [72 Cal. Rptr. 2d 898, 63 Cal.Comp.Cases 261]; see also Tyler v. Workers' Comp. Appeals Bd. (1997) 56 Cal.App.4th 389, 394 [65 Cal. Rptr. 2d 431, 62 Cal.Comp.Cases 924]; § § 5701, 5906.) The Court 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 [94 Cal. Rptr. 2d 130, 65 Cal.Comp.Cases 264].) The Court "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 Cmty. Hosp. v. Workers' Comp. Appeal Bd. (McKernan (1999) 74 Cal. App. 4th 928, 937-938 [88 Cal. Rptr. 2d 516, 64 Cal.Comp.Cases 986]. The medical record needs development, parties are Ordered to meet and confer to select a Neurologist AME or submit a joint request for Neurologist Panel QME per Labor Code 4062.2 and 4062.3 to address whether the applicant's March 14, 2023 industrially related fall caused injury to her head and brain.

Served by U.S. mail on all parties as listed on the Official Address Record.

ON: 3.4.2025 By: Lydia Hunter