WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

AUDREY READ, *Applicant*

vs.

MOBILE HOME COMMUNITIES OF AMERICA; UNITED STATES FIRE INSURANCE COMPANY, administered by CRUM & FORSTER INSURANCE, *Defendants*

Adjudication Numbers: ADJ19126786, ADJ19126787
Oakland 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.

I.

Former Labor Code[1] 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:

> (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.

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

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 November 19, 2025, and 60 days from the date of transmission is Sunday, January 19, 2026. The next business day that is 60 days from the date of transmission Tuesday, January 20, 2026. (See Cal. Code Regs., tit. 8, § 10600(b).)[2] This decision is issued by or Tuesday, January 20, 2026, so that we have timely acted on the petition as required by 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 November 19, 2025, and the case was transmitted to the Appeals Board on November 19, 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 November 19, 2025.

II.

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].)

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[2] WCAB Rule 10600(b) (Cal. Code Regs., tit. 8, § 10600(b)) states that:

> Unless otherwise provided by law, if the last day for exercising or performing any right or duty to act or respond falls on a weekend, or on a holiday for which the offices of the Workers' Compensation Appeals Board are closed, the act or response may be performed or exercised upon the next business day.

In the decision, the WCJ ordered that Exhibit A was not admitted into evidence. We agree that the WCJ properly declined to admit Exhibit A because even if defendant had not yet received the report, it could have identified it on the Pre-Trial Conference Statement. Defendant is reminded that while an evidentiary order may be challenged on reconsideration, to the extent that defendant discusses the merits of the report, it should be couched as an offer of proof.

For the foregoing reasons,

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

WORKERS' COMPENSATION APPEALS BOARD

/s/ CRAIG L. SNELLINGS, COMMISSIONER

I CONCUR,

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

JOSÉ H. RAZO, COMMISSIONER
CONCURRING NOT SIGNING

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

JANUARY 20, 2026

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

AUDREY READ
FROST LAW
COLEMAN CHAVEZ LAW

JMR/*pm*

I certify that I affixed the official seal of the Workers' Compensation Appeals Board to this original decision on this date.
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JOINT REPORT AND RECOMMENDATION ON PETITION FOR RECONSIDERATION AND NOTICE OF TRANSMISSION OF THE MATTER TO THE RECONSIDERATION UNIT OF THE APPEALS BOARD

INTRODUCTION

By a timely and verified Petition for Reconsideration (Petition) filed on August 22, 20251, defendant seeks reconsideration of my July 31, 2025 Joint Findings, Award and Order, wherein I found, among other things, that applicant, while employed[1] on September 30, 2016 (ADJ19126786) as an office assistant/secretary (Occupational Group 211) at San Jose, California, by Mobile Home Communities of America, Incorporated, sustained injury arising out of and in the course of employment to the bilateral shoulders, bilateral knees, cervical spine, lumbar spine, and thoracic spine, but did not sustain injury to the bilateral ankles, causing permanent disability of 59% after apportionment. I also found that applicant did not sustain a cumulative trauma to the same body partes during the cumulative trauma period ending on September 30, 3016 in ADJ19126787. In reaching my decision, I relied on the report of one of the Qualified Medical Examiners in this case, Dr. Rabeah Emanour, whose opinion I found mor persuasive and logical than the other QME in these cases. Dr. Eric Carlblom.

Defendants contend: (1) I should have relied on the opinion of Dr. Carlblom and his assessment of permanent disability at 43% because the opinion of Dr. Emampour is not substantial evidence; and (2) I should have admitted the March 31, 2025 report from Dr. Emampour into evidence, which may have reduced Dr. Emampour's permanent disability rating from 59% to 55%. Applicant filed an Answer, disputing defendant's contentions. I have reviewed the Petition, the Answer, and the record in this matter, and I recommend that the Petition for Reconsideration be denied.

[1]For reasons that remain unclear to this judge, the Petition for Reconsideration's four tasks were not sent to the trial judge or the presiding judge, as is the usual custom and practice. Instead, the tasks were assigned a state employee named "Glenn Tongcio," who has been retired from state service since 2018. This office became aware of the Petition for Reconsideration on November 13, 2025.

FACTUAL BACKGROUND

There were two QME's in this case, due to the timing of the two claimed injuries. As explained in my Opinion on Decision at p. 1, I could not follow the reasoning or rationale of the opinion of Dr. Carlblom, as his rationale for finding a cumulative trauma injury is not well-reasoned or clearly explained. Furthermore, the opinion of Dr. Carlblom is also difficult to follow, both logically and due to his extensive use of abbreviations. As an example of Dr. Carlblom's style, the following is the verbatim of Dr. Carlblom's discussion of causation of the injuries at pp. 11-12 of his permanent and stationary report of July 17, 2023 (Exh. 103):

> "As reviewed above, there are likely several etiologic bases for the current clinical and radiographic findings; at the point of the 09/2016 injury, patient had already developed significant lumbar spondylosis, facet QA/hypertrophy and development of ASD changes. Although noting that these have increased over time, is likely that there would need to be apportionment for these changes, potentially based upon continued degenerative processes from prior injury, but also likely having some ongoing association with recurrent injury, associated with the 09/2016 incident. Unfortunately, based upon the available image reports, there have been no L-spine MRI images performed, subsequent to the 11/2016 images.
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> The B-shoulders sustained injury during the 09/2016 injury process, underwent arthroscopic Tx. including RTC repair, largely successful, however the l-biceps shortening (i.e., loss of tenodesis fixation) has continued to cause problems, as well as the moderate pain due to 8-Mumford procedures. Patient has developed contractures of joint and muscle, which largely can be ascribed to the AOE/COE injuries.
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> Similarly, although noting relatively symmetrical patellofemoral findings on MRI, the meniscal injuries appeared acute, consistent with that injury date; there was l-patellar lateral facet mild local edema, also consistent with acute trauma. Although noting moderate soft tissue strain injuries for the L-ankle, radiology noted no bone trauma, per se; my review suggested that patient had sustained nondisplaced fractures within the L-talus (as described), but which likely healed without ongoing residuum, based upon resolution of these complaints.
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> As noted above, the onset of C-spine pain was relatively slow to present, largely associated with myofascial muscle pain, later finding evidence for neurologic symptoms associated with C6-7 radiculopathy, however due to the relative lack of initial Sx, no early imaging studies were performed, thus no good comparisons, from early-to-late, can be provided, limiting ability to provide strong etiologic bases for conclusion. Conversely, patient apparently had sustained impact to her R-face, which would have caused increased compression forces along L-cervical spine, currently noting that the L-UE was noted to have increased evidence for neurologic complaints, and although L-hand dominant, had overall less strength within the l-UE, globally, although noting bilateral CG-7 radiculopathy, by EMG/NCV study. The CG-7 radicular Sx, with coupling of the chronic

myofascial Sx, likely have some relationship due to the lower C-spine levels being compressed by the periscapular musculature, inserting on the lower cervical spine.

As above, the B-knees have largely maintained the good results of arthroscopic Tx, except for the L-patellofemoral and evidence for probable meniscal injury vs. arthrosis aggravation; again, these Sx likely are due to ongoing gait dysfunction and limited trip/fall type forces, occurring as a CT process, over time, subsequent to the arthroscopic exams.

As above, the B-knees have largely maintained the good results of arthroscopic Tx, except for the L-patellofemoral and evidence for probable meniscal injury vs. arthrosis aggravation; again, these Sx likely are due to ongoing gait dysfunction and limited trip/fall type forces, occurring as a CT process, over time, subsequent to the arthroscopic exams.

Although patient described the initial 8-foot pain (i.e., toes) the L-ankle had sustained strain injuries to multiple tendons and likely had impact, these have largely resolved over time, as had the (apparent) talar Fx findings; as previously noted, the R-ankte ATFL increased findings, over time, would suggest a CT process (compensable); it is likely that the B-ATFL tears contribute to the ongoing instability, associated with gait, although there is no gross evidence for ongoing arthrosis increases, based on x-ray images.

The above noted considerations, discussion and conclusions were based upon reasonable medical probability."

In the following section of his same report, Dr. Carlblom's discussion of apportionment of permanent disability between the specific and purported cumulative period of injury is based on similar verbiage. More importantly, Dr. Carlblom's does not provide and cogent rationale to support why he finds cumulative trauma injury.

Dr. Emampour, on the other hand, provided a clear and succinct rationale for finding only the specific injury point at p. 27 of the November 22, 2024 report (Exh. 112), stating, "I do not find any of Ms. Read's work injuries to her neck, lower and mid back, both knees, and both shoulders being due to a cumulative industrial injury.

With respect to defendant's contention that the opinion of Dr. Emampour is not substantial evidence, I disagree. Any decision by the Appeals Board or a WCJ must be supported by substantial evidence. (*Lamb v. Workmen's Comp. Appeals Bd.* (1974) 11 Cal.3d 274, 280–281 [39 Cal.Comp.Cases 310]; *LeVesque v. Workmen's Comp. Appeals Bd.* (1970) 1 Cal.3d 627, 637 [35 Cal.Comp.Cases 16]; *McAllister v. Workmen's Comp. Appeals Bd.* (1968) 69 Cal.2d 408, 419 [33 Cal.Comp.Cases 659].) The opinion of a single physician may constitute substantial evidence, unless it is erroneous, beyond the physician's expertise, no longer germane, or based on an inadequate history, surmise, speculation, conjecture, or guess. (*Bolton, supra*, 34 Cal.3d at p. 169;

Place v. Workmen's Comp. Appeals Bd. (1970) 3 Cal.3d 372, 378 [35 Cal.Comp.Cases 525]; see also *Escobedo v. Marshalls* (2005) 70 Cal.Comp.Cases 604, 620–621 (Appeals Board en banc).) Here, Dr. Emampour reviewed over three years of medical records (including the reports of Dr. Carlblom) and took a comprehensive history of the injury from applicant. His history is not inaccurate, and is not erroneous, beyond the physician's expertise, no longer germane, or based on an inadequate history, surmise, speculation, conjecture, or guess.

Defendant's second argument is that the March 31, 2025 supplemental report from Dr. Emampour should not have been excluded from evidence. This is related to defendant's first contention, in that this supplemental report would have provided prior evidence of permanent impairment, and would have been the basis for additional apportionment by Dr. Emampour. Establishing apportionment is defendant's burden. There is some apportionment to permanent disability found by Dr. Emampour related to applicant's cervical, thoracic and lumbar spine regions, as set forth in his report of November 22, 2024. This apportionment was applied, which reduced applicant's level of permanent disability to 59%.

Defendant has not met its burden to prove additional apportionment. With respect to the excluded March 31, 2025 report from Dr. Emampour, it was not admitted into evidence for several reasons. First and foremost, the issue of admissibility of any requested supplemental report from Dr. Emmapour was not listed as an issue for trial at the time of the mandatory settlement conference (MSC) on the April 8, 2025 Pre-Trial Conference Statement. Second, there has been no showing that the supplemental report could not have been obtained with the exercise of due diligence prior to the closure of discovery at the MSC, pursuant to Labor Code section 5502(d)(3). Lastly, defendant did not object to March 4, 2025 Declaration of Readiness to Proceed, which set the matter set for MSC where defendant was aware that discovery was subject to closure.

RECOMMENDATION

Based upon the foregoing, it is respectfully recommended that defendant's Petition be **DENIED.**

NOTICE OF TRANSMISSION TO THE APPEALS BOARD

On November 19, 2025, this matter is transmitted to the Reconsideration Unit of the Appeals Board.

Dated: November 19, 2025

JAMES GRIFFIN
WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE