

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

CLAUDIA ERAZO, *Applicant*

vs.

**DEDICATED BUILDING SERVICES;
SERVICE AMERICAN INDEMNITY COMPANY, administered by LWP CLAIMS,
*Defendants***

**Adjudication Number: ADJ21161039
Santa Ana District Office**

**OPINION AND ORDER
GRANTING PETITION FOR
RECONSIDERATION
AND DECISION AFTER
RECONSIDERATION**

Defendant seeks reconsideration of the Findings of Fact (Findings) issued on June 15, 2026, wherein the workers' compensation administrative law judge (WCJ) found, in relevant part, that applicant, while employed as a janitor by defendant during the period June 26, 2024, through April 26, 2025, sustained injury arising out of and in the course of employment (AOE/COE), and that the liens of the Central Metro Clinic Los Angeles, Kohanim Chiropractic Los Angeles, and Social Interpreting Los Angeles are treatment liens. Defendant contends that there is a lack of substantial evidence to support the WCJ's finding of injury AOE/COE.

We have not received an answer from lien claimants. The WCJ prepared a Report and Recommendation on Petition for Reconsideration (Report), recommending that the Petition be denied.

We have considered the Petition for Reconsideration and the contents of the Report, and we have reviewed the record in this matter. Based on our review of the record, and for the reasons stated in the WCJ's Report, which we adopt and incorporate, and for the reasons discussed below, we will grant reconsideration solely to enter into evidence lien claimants' Exhibits 1 through 3, and otherwise affirm the findings of the WCJ.

I.

During the period from July 1, 2026 to July 13, 2026, Labor Code¹ section 5909(a) 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(a).)

Here, the Petition for Reconsideration was filed on July 10, 2026, and 60 days from the date of filing is September 8, 2026. This decision is issued by or on September 8, 2026, so that we have timely acted on the petition as required by section 5909(a).

II.

Petitioner claims that the record lacks substantial medical evidence in support of a finding of injury AOE/COE. 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, 281 [39 Cal.Comp.Cases 310]; *Garza v. Workmen's Comp. Appeals Bd.* (1970) 3 Cal.3d 312, 317 [35 Cal.Comp.Cases 500]; *LeVesque v. Workmen's Comp. Appeals Bd.* (1970) 1 Cal.3d 627, 635 [35 Cal.Comp.Cases 16].)

Pursuant to section 5705, the “burden of proof rests upon the party or lien claimant holding the affirmative of the issue.” (Lab. Code, § 5705.) “All parties and lien claimants shall meet the evidentiary burden of proof on all issues by a preponderance of the evidence.” (Lab. Code §3202.5.) “A lien claimant ... has the burden of proving by a preponderance of the evidence that the claim is industrial....” (*Hand Rehabilitation Center v. Workers' Comp. Appeals Bd. (Obernier)* (1995) 34 Cal.App.4th 1204, 1210 [60 Cal.Comp.Cases 289].)

Section 3600(a) provides for liability for injuries sustained “arising out of and in the course of the employment.” An employer is liable for workers’ compensation benefits “without regard to negligence.” (Lab. Code, § 3600(a).) The course of employment ordinarily refers to the time, place, and circumstances under which the injury occurs. (*Latourette v. Workers' Comp. Appeals Bd.* (1998) 17 Cal.4th 644, 651 [63 Cal.Comp.Cases 253].) Arising out of employment means that it must occur as a result of a condition or incident of the employment; the employment and the injury must be linked in some causal fashion. (*Id.*) An employee bears the burden of proving the injury arose out of and in the course of the employment by a preponderance of the evidence. (*South*

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

Coast Framing, Inc. 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.) Whether an employee's injury arose out of and in the course of employment is generally a question of fact to be determined in light of the particular circumstances of the case. (*Wright v. Beverly Fabrics* (2002) 95 Cal.App.4th 346, 353 [67 Cal.Comp.Cases 51].)

Further, a medical opinion must be framed in terms of reasonable medical probability, it must be based on an adequate examination and history, it must not be speculative, and it must set forth reasoning to support the expert conclusions reached. (*E.L. Yeager Construction v. Workers' Comp. Appeals Bd. (Gatten)* (2006) 145 Cal.App.4th 922, 928 [71 Cal.Comp.Cases 1687]; *Escobedo v. Marshalls* (2005) 70 Cal.Comp.Cases 604, 620-621 (Appeals Bd. 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." (*Heggin v. Workmen's Comp. Appeals Bd.* (1971) 4 Cal.3d 162, 169 [36 Cal.Comp.Cases 93].)

On the other hand, there must be some solid basis in the medical report for the doctor's ultimate opinion; the Board may not blindly accept a medical opinion which lacks a solid underlying basis and must carefully judge its weight and credibility. (*National Convenience Stores v. Workers' Comp. Appeals Bd. (Kesser)* (1981) 121 Cal.App.3d 420, 426 [46 Cal.Comp.Cases 783].) In other words, the Board must look to the underlying facts of a medical opinion to determine whether or not that opinion constitutes substantial evidence, and accordingly, the expert's opinion is no better than the facts on which it is based. (*Turner v. Workers' Comp. Appeals Bd.* (1974) 42 Cal.App.3d 1036, 1044 [39 Cal.Comp.Cases 780].)

As set forth by the WCJ in his Report, Dr. Nikakhtar's medical opinion and conclusions were based upon reasonable medical probability after an adequate examination and evaluation, and it set forth reasoning to support the expert conclusions reached. (*E.L. Yeager Construction v. Workers' Comp. Appeals Bd. (Gatten)*, *supra*, 145 Cal.App.4th at p. 928; *Escobedo v. Marshalls*, *supra*, 70 Cal.Comp.Cases at pp. 620-621.) The relevant and considered opinion of one physician may constitute substantial evidence. (*Place v. Workmen's Comp. Appeals Bd.* (1970) 3 Cal.3d 372, 378-379 [35 Cal.Comp.Cases 525].)

The medical opinions of Dr. Nikakhtar constitutes substantial medical evidence of injury AOE/COE and were unrefuted. The WCJ provided the following analysis in the Opinion on Decision (OOD):

A defendant will not be liable for medical treatment where there is no industrial injury. (*Kunz v. Patterson Floor Coverings* (2002) 67 Cal.Comp.Cases 1588, 1593 (Appeals Board en banc).) Where a lien claimant litigates the issue of entitlement to payment for industrially related medical treatment, the lien claimant stands in the shoes of the injured worker and the lien claimant must establish industrial injury by a preponderance of evidence. (*Kaiser Foundation Hospitals v. Workers' Comp. Appeals Bd. (Martin)* (1985) 39 Cal.3d 57, 67 [50 Cal.Comp.Cases 411]; *Kunz, supra*, 67 Cal.Comp.Cases at p. 1592.)”

Lien Claimant Exhibit 1 is the Primary Treating Physician’s Comprehensive Medical-Legal Evaluation report of Centro Metro Clinic, Inc. The report is signed by Nehzat Nikakhtar, M.D., and refers to Claudia Erazo and an injury of “CT June 26, 2024 – June 26, 2025.” It references a “Med-legal Examination: October 10, 2025.” (Lien Claimant Exhibit 1, page 1.)

Applicant counsel provided a letter to Dr. Nikakhtar requesting an initial Comprehensive Medical-Legal Evaluation and directing the doctor “...prepare a report addressing the issue of whether the injuries claimed by the Applicant in this case are industrially related...” (Lien Claimant Exhibit 1, page 3.)

Dr. Nikakhtar opines “...based on the patient’s historical information, my own findings on physical examination and nature of her occupation, it is my professional opinion with a reasonable medical probability that Ms. Erazo indeed suffered cumulative trauma from June 26, 2024, to June 26, 2025 as a result of the gradually developing injuries that occurred while working at Dedicated Building Services...it is clearly evident and it is my professional opinion that the patient is entitled to worker’s [sic] compensation benefits...” (Lien Claimant Exhibit 1, page 22.)

Lien Claimant Exhibit 2 is a “State of California Doctor’s First Report of Occupational Injury or Illness.” It reflects applicant having been seen by Dr. Nikakhtar, M.D. 7/11/2025 for a “CT: 06/26/2024-06/26/2025” injury. (Lien Claimant Exhibit 2, page 1.)

Lien Claimant Exhibit 3 is a medical report from Central Metro Clinic, Inc. titled “Primary Treating Physician Comprehensive Initial Report.” It refers to an Initial Examination of July 11, 2025, by Dr. Nikakhtar for an injury “CT June 26, 2024, to June 26, 2025.” (Lien Claimant Exhibit 3, page 1.) Dr. Nikakhtar opines that “...based on medical probability, the patient’s present physical symptoms are causally related to the cumulative trauma of June 26, 2024, to June 26, 2025; the patient’s complaints appear to be industrial in nature and attributable to said injuries...” (Lien Claimant Exhibit 3, page 10.)

Lien Claimant exhibits 1, 2 and 3 constitute preponderating unrefuted evidence of the applicant having suffered cumulative traumatic injury. The Court finds, based upon

exhibits 1, 2 and 3, the lien claimants have sustained their burden of proving injury arising out of and in the course of employment.

(OOD, pp. 7-8.)

In the absence of evidence to the contrary, we see no need to question the findings of the WCJ. We do note, however, that while the WCJ states in his Opinion on Decision that lien claimant's exhibits are entered into evidence, an Opinion on Decision is not an Order of admission. As such, we will grant defendant's petition solely to issue an Order to admit the lien claimant's exhibits, and otherwise affirm the findings of the WCJ.

For the foregoing reasons,

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

IT IS FURTHER ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board, that lien claimants' exhibits 1-3 are **ADMITTED** into evidence.

IT IS FURTHER ORDERED that the June 15, 2026 Findings of Fact is **AFFIRMED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

I CONCUR,

/s/ JOSEPH V. CAPURRO, COMMISSIONER

/s/ PAUL F. KELLY, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

SEPTEMBER 4, 2026

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

**CLAUDIA ERAZO
COLLECTIVE RESOURCES
EM LEGAL**

JMR/pm

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

REPORT AND RECOMMENDATION ON PETITION FOR RECONSIDERATION

I INTRODUCTION

- 1. Applicant's Occupation:** Janitor
Date of Injury: June 26, 2024.
Parts of Body Injured: alleged to be bilateral wrists, bilateral hands, fingers, bilateral shoulders, bilateral knees, neck, thoracic spine and lumbar spine.
- 2. Identity of Petitioner:** Defendants Dedicated Building Services, insured by Service Lloyd's Insurance Company, administered by LWP Claims Solutions-Glendale (hereinafter "petitioner").

Timeliness: timely.
Verification: verified.
- 3. Date of Issuance of Findings & Award:** June 15, 2026.
- 4. Petitioner's Contentions:** (1) The trial judge acted without or in excess of their powers;
(2) The evidence Does not justify the findings of acts; and
(3) The findings of fact do not support the order, decision or award.

II PROLOGUE

The Petition for Reconsideration (hereinafter "Petition") asserts a "decision was filed in the above-entitled case on February 5, 2020, and was served on the parties on June 15, 2026..." (Petition, page 1, lines 22-24)

The Decision was filed June 15, 2026, not February 5, 2020. (Findings And Opinion 6/15/2026, EAMS DOC ID# 80444034)

The Petition asserts "...The Trial judge's decision bases the finding of injury AOE/COE based solely on the content of Dr. Nikakhtar's reporting, essentially deeming the doctor's

reports as self-evident and establishing foundation for themselves...(emphasis added)” (Petition For Reconsideration, page 2, lines 20-22)

The trial judge considered and based the findings on the entire trial record, which consisted of three medical reports, Defendant’s denial letter, and the stipulations of the parties. (MOH/SOE 5/7/2026, pages 2, lines 1 through page 2, line 18)

The Petition asserts “...if the Trial record does not include any evidence or testimony to substantiate or corroborate the history relied upon by a doctor, there can be no determination of whether the doctor’s opinion is substantial or not. If the Court were to assume that the history recorded in the doctor’s report is accurate and complete, even in the absence of evidence proving the history to be false or incomplete, the Judge’s decision would be based on the same assumption and speculation as the doctor’s report. Defendant contends that in order for a doctor’s opinion, based on the history provided by the Applicant, to be substantial evidence, at the time of Trial, there must be at least some corroborating evidence to support the accuracy and reliability of the history that the doctor relied upon.” (Petition, page 2, line 25 through page 3, line 6)

Otherwise stated, Petitioner asserts a court may not make a finding upon otherwise-substantial medical evidence, unless the medical history reflected therein is independently corroborated by supporting trial evidence, even if there is a complete absence of evidence suggesting the history to be false or incomplete.

In the instant case, Defendant offered no evidence that Dr. Nikakhtar’s reporting contained a false or inaccurate history. Defense counsel at trial orally argued the reports contained a false and misleading history. Defense counsel did not orally advise the court of any basis for that contention. Defendant offered no evidence at trial to support their oral argument. Petitioner now contends that the burden rests upon lien claimants to come forward with independent corroborating evidence to support the histories reflected in the otherwise substantial medical reporting. Petitioner offers no authority in support of its contention, other than to assert it as a “...basic tenant [sic] of law...” (Petition, page 2, lines 22-27)

The Petition asserts “...Dr. Nikakhtar states that his opinion is based on the information provided by the Applicant. However, there is no corroborating evidence provided, either in the content of the report itself, or offered at the time of the Lien Trial, to show that a) the information noted in Dr. Nikakhtar’s report was in fact provided by the Applicant, b) the information purportedly provided by the Applicant was accurate, complete, and/or reliable, or c) that the

Applicant has the requisite expertise or knowledge to know whether she was working without physical or emotional disability. Moreover, the entire purpose and benefit of obtaining reports and opinions from Medical Experts is rendered completely useless if the Medical Expert is basing their “expert” opinion solely on the Applicant’s belief that their medical condition was caused by their employment. By analogy, in cases where the Court is to decide the LC section 5412 date of injury in a Cumulative Trauma claim, the WCAB has consistently held that the Applicant’s own testimony that they knew their disability was work related was no [sic] sufficient to establish ‘knowledge of industrial causation.’ If that is true in the context of LC section 5412, it must also be true in the context of forming a medical opinion on causation...” (Petition, page3, line 22 through page 4, line 8)

In the instant case, Dr. Nikakhtar bases his opinions in part on the medical and injury history provided by Applicant, but not solely on those histories. Defendant cites no trial evidence suggesting any portion of those histories to be false or inaccurate. There was no such evidence. Moreover, Dr. Nikakhtar DID NOT base his opinions solely on those histories. He performed an examination of the Applicant. He provided the necessary attestations mandated by law. His reporting complies with Title 8, California Code of Regulations section 10682. He is a physician providing expert medical “testimony” in the Board’s preferred manner, by report.

In the instant case, the Petitioner challenges the Court’s findings following a Lien Trial held May 7, 2026. The parties proceeded on the limited, bifurcated issue of Injury arising out of and in the course of employment. Defendant offered no testimonial and but a single exhibit, a denial letter. Lien Claimants collectively offered no testimonial evidence and offered three exhibits, the three medical reports of Dr. Nezat Nikakhtar. The parties were given a concurrent period of 14-days until May 21, 2026. On May 21, 2026, the matter was submitted for decision.

At Lien Trial, the parties stipulated to the following facts:

1. Claudia Erazo, born [], while employed during the period June 26, 2024, through June 26, 2025, as a janitor by Dedicated Building Services, claims to have sustained injury arising out of and in the course of employment to the bilateral wrists, bilateral hands, fingers, bilateral shoulders, bilateral knees, neck, thoracic spine, and lumbar spine.
2. At the time of injury, the employer’s workers’ compensation carrier was Service American Indemnity Co. administered by LWP Claims.

3. The liens of Central Metro Clinic Los Angeles, Kohanim Chiropractic Los Angeles, and Socal Interpreting Los Angeles are treatment liens.

4. This Claim is denied.

The Issue submitted for decision was: Injury arising out of and in the course of employment. All other lien issues were deferred.

This case involves a claim of cumulative traumatic injury over the one-year period June 26, 2024, through June 26, 2025, during Applicant's employment as a janitor with Dedicated Building Services. The claim is denied. (MOH/SOE 5/7/2026, page 2:12.) Participants in the Lien Trial were: 1) lien claimants Central Metro Clinic Los Angeles, Kohanim Chiropractic Los Angeles, and Socal Interpreting Los Angeles, collectively; and 2) Service American Indemnity Co. administered by LWP Claims.

Lien Claimants bear the initial burden of proving injury arising out of and in the course of employment. The evidence offered by Lien Claimants in support of that burden consisted of Lien Claimant Exhibits 1, 2 and 3, and the Stipulations of the parties at trial.

On the day of trial, defendant orally objected to the admissibility of Lien Claimants' three exhibits, contending the reports contained false and inaccurate histories. Other than that oral contention by counsel, itself unsubstantiated by oral offers of proof, the record was entirely devoid of any substantial evidence supporting the contention. The medical and injury histories contained in the medical reporting (Exhibits 1, 2 and 3) were unrefuted by any evidence presented by defendant or otherwise.

Defendant also orally objected to Lien Claimant's Exhibit 1 on the further basis that service upon Defendant was first made 4/17/26, after the occurrence of the Lien Conference. Lien Claimant Exhibits 1, 2 and 3 were designated by Lien Claimants on the Pre-Trial Conference Statement. Evidence in the trial record demonstrated transmittal to defendant LWP Claims well prior to the Lien Conference.

Defendant's objections to Lien claimant Exhibits 1, 2 and 3 were overruled and the exhibits were admitted into evidence. (Findings and Opinion, page 6) The court's evidentiary rulings are not challenged by the petitioner.

The only evidence submitted into the trial record on behalf of defendant was Exhibit A, a Notice of Denial of the claim.

Lien Claimant Exhibit 1 is the Primary Treating Physician's Comprehensive Medical-Legal Evaluation report of Centro Metro Clinic, Inc. The report is signed by Dr. Nehzat Nikakhtar, M.D. The reporting refers to Claudia Erazo and her injury of "CT June 26, 2024 – June 26, 2025." It references a "Med-legal Examination: October 10, 2025." (Lien Claimant Exhibit 1, page 1.)

By letter to Dr. Nikakhtar, applicant counsel had requested an initial Comprehensive Medical-Legal Evaluation and directed the doctor to "...prepare a report addressing the issue of whether the injuries claimed by the Applicant in this case are industrially related..." (Lien Claimant Exhibit 1, page 3.)

Dr. Nikakhtar opines "...based on the patient's historical information, my own findings on physical examination and nature of her occupation, it is my professional opinion with a reasonable medical probability that Ms. Erazo indeed suffered cumulative trauma from June 26, 2024, to June 26, 2025 as a result of the gradually developing injuries that occurred while working at Dedicated Building Services...it is clearly evident and it is my professional opinion that the patient is entitled to worker's [sic] compensation benefits..." (Lien Claimant Exhibit 1, page 22.)

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III **DISCUSSION**

Petitioner contends: "The claim was denied AOE/COE and also asserting post-termination filing in violation of Labor Code section 3600(a)(10) [sic]. Ex. A, Denial Letter, dated July 7, 2025. The case was settled by Compromise & Release with Order Approving dated November 18, 2025. The C&R included in paragraph 9 that 'The Applicant Stipulates that there are no other

claims against Defendants. The claim is Denied post-termination. No injuries were reported prior to Applicant's layoff...' See, EAMS Doc Id #79782640...' (Petition For Reconsideration, page 2, lines 7-12)

Defendant offered no trial evidence upon which the court could conclude elements of a post-termination defense existed. Defendant did not frame a post-termination defense as an issue for determination by the Court. Other than the mention of the post-termination defense in the Petition for Reconsideration, and its mention in the Denial Notice and C&R, petitioner cites no references to the trial record in support of the actual elements of the defense. The lien claimants in this case were not in privity to the participants to the Compromise and Release. A Compromise and Release is a contract to resolve judicial disputes. "...[T]he recitals or language contained in a compromise and release agreement do not constitute substantial evidence upon which a workers' compensation administrative law judge (WCJ) or the Appeals Board can rely in making findings on any issue." (*Tito Torres v. AJC Sandblasting; and Zurich North America* (2012) (en banc) 77 Cal. Comp. Cases 1113)

Petitioner seems to suggest that mention of a post-termination defense in the denial, and the language in the C&R ("no injuries were reported prior to Applicant's layoff") were sufficient to sustain its burden of proving a post-termination defense.

A post-termination defense is an affirmative defense which must be asserted and proven. There is no admitted evidence sufficient to sustain defendant's burden of proving a defense under California Labor Code Section 3600(a)(10).

As noted, *supra*, the Petitioner contends that:

"The Trial Judge's decision bases the finding of injury AOE/COE based solely on the content of Dr. Nikakhtar's reporting, essentially deeming the doctor's reports as self-evident and establishing foundation for themselves. However, it is a basic tenant [sic] of law that evidence without proper foundation, establishing the reliability of the facts or premises upon which the evidence is based [sic]. In the case of medical reporting, a doctor's opinion must be based on an adequate history. However, if the Trial record does not include any evidence or testimony to substantiate or corroborate the history relied upon by a doctor, there can be no determination of whether the doctor's opinion is substantial or not. If the Court were to assume that the history recorded in the doctor's report is accurate and complete, even in the absence of evidence proving the history to be false or incomplete,

the Judge's decision would be based on the same assumption and speculation as the doctor's report. Defendant contends that in order for a doctor's opinion, based on the history provided by the Applicant, to be substantial evidence, at the time of Trial, there must be at least some corroborating evidence to support the accuracy and reliability of the history that the doctor relied upon. Most commonly, this is the Applicant's own testimony..." (Petition For Reconsideration, pages 2, line 20 – page 3, line 6)

Petitioner avers that the Court committed error in its reliance on Dr. Nikakhtar's medical reporting, in finding injury arising out of and in the course of employment. Petitioner argues the medical reporting of Dr. Nikakhtar is insufficient as a matter of law to serve as substantial medical evidence of injury AOE/COE, because it is self-serving, and the history upon which it is based is otherwise unsubstantiated by collateral supporting evidence. Simply stated, petitioner contends that a lien claimant cannot sustain its burden of proving injury AOE/COE utilizing only its own medical reporting. This contention seems to be a refinement of petitioner's earlier unsubstantiated oral argument that Dr. Nikakhtar's medical reporting should be inadmissible as containing a false and misleading medical history. That objection was overruled. The Court's evidentiary ruling was not challenged.

Petitioner now contends the medical reporting must be collaterally substantiated, even in the absence of any evidence suggesting the history to be false or misleading, or else the medical reporting must be presumed unreliable.

Such a rule, if generally adopted, would not be congenial to the Board's primary method of receiving medical evidence. "...The Workers' Compensation Appeals Board favors the production of medical evidence in the form of written reports..." (Title 8, California Code of Regulations section 10682)

Petitioner does not challenge Dr. Nikakhtar's medical reporting as lacking content mandated under Title 8, California Code of Regulations section 10682. More specifically, Petitioner does not contend Dr. Nikakhtar failed to provide a detailed medical and injury history. Rather, petitioner argues the detailed history is based upon what was told to the doctor by the Applicant. Petitioner then argues that because the doctor is relying upon the information provided by Applicant, the court cannot rely upon the medical reporting unless the doctor proves via collateral sourcing the accuracy of the history.

Petitioner asks this Board to enunciate a rule placing the burden upon this lien claimant to prove the accuracy of Dr. Nikakhtar's injury and medical history, instead of upon defendant to assert and prove a false and misleading history

The Petitioner argues they need only utter an unsubstantiated claim of false and misleading history, offering no evidence thereof, and by doing so shift the burden to lien claimant to prove the accuracy of the history. The burden of proving a false and misleading history falls upon the Defendant, and in this case and they have failed in that burden.

If there was any substance to petitioner's claim of false and misleading history, the Court is confident that trial counsel would have offered the evidence into the record at trial. In the absence of such admitted evidence, this Court declined to judicially craft a presumption that Dr. Nikakhtar's history is fatally flawed, until the doctor proves otherwise. The Lien Claimant exhibits 1, 2 and 3 contain preponderating unrefuted evidence of the applicant having suffered cumulative traumatic injury. The Court found, based upon exhibits 1, 2 and 3, the lien claimants have sustained their burden of proving injury arising out of and in the course of employment.

IV **RECOMMENDATION**

It is respectfully recommended that the Petition for Reconsideration be denied.

DATE: July 13, 2026

Nate Halprin
WORKERS' COMPENSATION JUDGE