

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

DANIEL KENNEDY, *Applicant*

vs.

**MAJOR LEAGUE SOCCER, LLC dba LOS ANGELES GALAXY; GREAT DIVIDE
INSURANCE COMPANY, administered by BERKLEY ENTERTAINMENT, *Defendants***

**Adjudication Number: ADJ10902369
Anaheim District Office**

**OPINION AND DECISION
AFTER RECONSIDERATION**

We previously granted reconsideration to allow us time to further study the factual and legal issues in this case. This is our Opinion and Decision After Reconsideration.

Applicant seeks reconsideration of the Amended Findings, Award and Order (FA&O) issued on January 31, 2023, by the workers' compensation administrative law judge (WCJ). The WCJ found, in pertinent part, that applicant, while employed during the period from April 2, 2005 to February 20, 2017, as a professional athlete, sustained industrial injury to his head, neurological system, cervical spine, lumbar spine, bilateral shoulders, right elbow, left hip, right knee, right ankle, bilateral feet and internal system (in the form of inguinal hernias), but not to his right hip and right hamstring. The WCJ also found as follows that applicant's injury caused whole person impairment (WPI) of 5% to the cervical spine, 2% to the right shoulder before apportionment, 2% to the left shoulder before apportionment, 1% to the right elbow, 5% to the lumbar spine, 10% to the left hip, 10% to the right knee before apportionment, 7% to the right ankle before apportionment, 1% to the bilateral feet, 5% in the form of combined headache, sleep/arousal disorder, and mental disorder, and 0% in the form of internal / inguinal hernias. She further found that the impairment to the bilateral shoulders should be added and that the impairment to all other body parts should be combined; and that the opinions of Panel Qualified Medical Evaluator (PQME) George Watkins, M.D., as to adding of the impairments was not substantial evidence.

Applicant contends that the WCJ erred in failing to add the orthopedic impairments pursuant to *Athens Administrators v. Workers' Comp. Appeals. Bd. (Kite)* (2013) 78 Cal.Comp.Cases 213 (writ denied) and erroneously found no injury to the right hip.

We have received an answer from defendant. The WCJ filed a Report and Recommendation on Petition for Reconsideration (Report) recommending that we deny reconsideration.

We have considered the allegations in applicant's Petition and defendant's Answer and the contents of the WCJ's Report. Based on our review of the record, and for the reasons discussed below, as our Decision After Reconsideration, we will rescind the WCJ's January 31, 2023 Amended FA&O and substitute a new Findings & Award finding industrial injury to the head, neurological system, cervical spine, lumbar spine, bilateral shoulders, right elbow, bilateral hips, right knee, right ankle, bilateral feet and internal system (in the form of inguinal hernias), and deferring the issues of permanent disability, apportionment and attorney fees. We otherwise make no substantive changes to the decision.

BACKGROUND

The parties stipulated that applicant, while employed during the period from April 2, 2005 to February 20, 2017, as a professional athlete, and by Major League Soccer, LLC dba Los Angeles Galaxy during the last year of injurious exposure, claims to have sustained injury arising out of and in the course of employment to multiple parts of body including but not limited to orthopedic, head, neck, spine, hips, upper and lower extremities, neurological and internal.

The parties jointly submitted the PQME reports of Alan Ross, M.D. dated March 3, 2022 (Joint Ex. Y) and Andrew Schreiber, M.D. dated January 9, 2020 (Joint Ex. Z). Applicant submitted the PQME reports and depositions of Dr. Watkins. (App. Exs. 3-9.)

In his report dated September 14, 2018, PQME Dr. Watkins, evaluated applicant and took a history that he established a career as a professional goalkeeper beginning in February 2005. (App Ex. 6, p. 1.) Over a 12-year tenure, he performed for several teams, including the New Jersey Metro Stars, Chivas USA, FC Dallas, and the LA Galaxy, until his retirement in April 2017. (*Id.* at pp. 1-3). Applicant's duties required continuous high-impact maneuvers, including diving, jumping, and frequent collisions with players to prevent goals during 90-minute matches. (*Id.* at pp. 2-4.) This professional history resulted in a series of severe orthopedic injuries and surgical interventions documented throughout the record. (*Id.* at pp. 13-14.)

According to PQME Dr. Watkins, applicant's clinical history reflects a profound cumulative physical toll, including status post bilateral shoulder arthroscopies with biceps tenodesis in 2010 and a right knee posterior collateral ligament reconstruction in 2009. Diagnostic imaging and operative reports further confirm a left hip labral tear with moderate degenerative changes, chronic cervical

and lumbar spine strains with possible disc pathology, and bilateral inguinal hernia repairs performed in 2012 and 2013. (*Id.* at pp. 59-60.)

Applicant reported constant, radiating pain and “popping and grinding” across multiple body parts, noting that his symptoms in the neck, shoulders, left hip and right knee are actively worsening. (*Id.* at pp. 5-6.) Despite aggressive treatment, including six lumbar epidural injections, plasma-rich platelet therapy, and multiple arthroscopic surgeries, applicant’s condition eventually necessitated his permanent retirement from professional soccer in April 2017. (*Id.* at pp. 3-4, 25, 29-30, 48, 66-67.)

With respect to applicant’s right hip, PQME Dr. Watkins opined as follows:

Based on the findings of the MRI scan and absent evidence to the contrary it is within a reasonable medical probability that Mr. Kennedy ***also sustained a cumulative type injury to his right hip*** while playing Goalkeeper during his Professional Soccer Career.

(App. Ex. 5, p. 7, emphasis added.)

With respect to permanent disability, pursuant to PQME Dr. Watkin’s November 29, 2018 report, for the cervical spine, he assessed 5% WPI based on DRE Category II under Table 15-5 on page 392 of the AMA Guides to the Evaluation of Permanent Impairment (AMA Guides). (*Id.* at pp. 3-4.) This assessment requires a clinical history and examination findings compatible with a specific injury, which may include muscle guarding, asymmetric loss of range of motion, or non-verifiable radicular complaints. He supported these findings in his September 14, 2018 examination report by documenting “tenderness to palpation along C7” and a restricted cervical extension of 31° in range of motion. Furthermore, while applicant reported radiating pain, numbness, and tingling into the left arm, his neurological examination remained intact with Grade 5 motor strength and normal reflexes. (App. Ex. 6, p. 54.)

For the lumbar spine, PQME Dr. Watkin assessed 5% WPI based on DRE Category II under Table 15-3 on page 384 of the AMA Guides, requiring muscle guarding, asymmetric motion loss, or non-verifiable radicular complaints without structural integrity alteration or persistent radiculopathy. (App. Ex. 5, p. 5.) He supported these requirements in his examination results from September 14, 2018 through the documentation of “tenderness to palpation along the mid lumbar spine” and “pain in the low back radiating to the left leg and foot accompanied with muscle spasm.” (App. Ex. 6, pp. 5, 56.) Additionally, the medical record included prior clinical evidence of “increased muscular tone of the left [quadratus lumborum].” (*Id.* at p. 44). Finally, the lower extremity neurological examination showed no verifiable loss of power or sensory deficits. (*Id.* at pp. 56-57.)

For the right shoulder, PQME Dr. Watkin assessed 2% WPI by applying Figures 16-40, 16-43, and 16-46 on pages 476 through 479 of the AMA Guides. He recorded flexion of 150° for 2% upper extremity (UE) impairment and abduction of 150° for 1% upper extremity impairment, calculating a total 3% UI impairment that converts to 2% WPI according to Table 16-3 on page 439 of the AMA Guides. Applying the same analysis for the left shoulder, he recorded flexion of 150° for 2% UI impairment, extension of 35° for 1% UI impairment, and abduction of 150° for 1% UI impairment. He combined these deficits for 4% UI impairment, which converts to 2% WPI under Table 16-3 on page 439. (App. Ex. 5, at p. 4.)

For the right elbow, he assessed 1% WPI using Figures 16-34 and Figures 16-37 on pages 472 and 474 of the AMA Guides. He recorded 135° of flexion for 1% UI impairment and negative 5° of extension for an additional 1% UI impairment, combining for 2% UI impairment that translates to 2% WPI based on Table 16-3 on page 439 of the AMA Guides. (*Ibid.*)

For both hips, he assessed 10% WPI to each hip based on Table 17-31 on page 544 of the AMA Guides, reflecting applicant's moderate osteoarthritis of the hips. PQME Dr. Watkin applied Table 17-31 on page 544 of the AMA Guides based, per his deposition on September 29, 2021, on an estimation of a 1 mm cartilage interval. (*Ibid.*; App. Ex. 9, pp. 18:18-25 to 19:1-4.)

For the right knee, he assessed 10% WPI based on Table 17-33 on page 546, reflecting applicant's analogous moderate to severe cruciate ligament laxity, referencing Table 17-33 on page 546 of the AMA Guides. (App. Ex. 5, at p. 5.)

For the right ankle, PQME Dr. Watkin assessed 7% WPI using Tables 17-11 and 17-12 on page 537 of the AMA Guides, recording 10° of plantarflexion for 6% WPI and 10° of inversion for 1% WPI. (*Ibid.*)

Finally, for the feet, he assessed 1% WPI for both feet based on Table 17-33 on page 547 of the AMA Guides, reflecting bilateral plantar fasciitis, equating the condition to a mild midfoot deformity. (*Id.* at pp. 5-6.)

In his supplemental report dated January 4, 2021, PQME Dr. Watkins established his apportionment opinions by analyzing applicant's entire career on a per-diem basis, explicitly declining to apportion any disability to preexisting degenerative changes, directly attributing those changes to the cumulative physical toll of playing professional soccer. (App. Ex. 3, pp. 2-3.) PQME Dr. Watkins assigned the permanent disability of the neck, right elbow, low back, left hip, and feet entirely to cumulative trauma, reasoning that the medical records document ongoing, progressively worsening symptoms and minor incidents indicative of overuse rather than definitive,

disability-causing specific injuries. (*Id.* at pp. 3-5.) For the shoulders, he divided the disability equally, apportioning one-third to a February 9, 2010 injury, one-third to an August 7, 2010 injury, and the final third to cumulative trauma since the records identify shoulder pain preceding the specific events. (*Id.* at p. 3.) He parsed the right knee permanent disability by assigning 50% to a major posterior collateral ligament tear from March 7, 2009, 25% to a subsequent medial collateral ligament tear on August 15, 2015, and the remaining 25% to cumulative trauma. (*Id.* at p. 4.) Finally, he apportioned the right ankle permanent disability by assigning 20% to a September 21, 2013 injury and 80% to cumulative trauma based on applicant's history of persistent ankle problems following that distinct event. (*Id.* at p. 5.)

In his deposition dated April 29, 2021, PQME Dr. Watkins recommended adding the multiple impairment values rather than using the Combined Values Chart (CVC), arguing that it fails to capture the true disability of an employee who cannot use one limb to compensate for the other. (App. Ex. 9, pp. 17:3-25 to 18:1-12.) In addition, with respect to the right hip, he found that it was a "new and further [injury] from the original damage" that will eventually require, in addition to the left hip, replacement surgery. (*Id.* at p. 16:20-23.)

In his supplemental report dated August 3, 2022, he further explained that the CVC fails to account for the total functional loss in cases of bilateral or inter-related injuries. He explains that, when an employee suffers from bilateral extremity injuries, specifically to the shoulders, wrists, hands, knees, or ankles, that person loses the ability to spare one limb by overcompensating with the other, making simple addition a more accurate reflection of their disability. He extends this logic to the synergy between the low back, hips, and knees, noting that applicant's joint injuries prevent him from squatting to protect his spine, while his lumbar condition simultaneously prevents him from bending to alleviate stress on his lower extremity joints. By applying this reasoning pursuant to *Kite*, PQME Dr. Watkins concluded that the cumulative effect of these overlapping physical restrictions creates a greater overall impairment than a formulaic combination would suggest. (App. Ex. 3, p. 2.)

On November 2, 2022, the parties proceeded to trial. Applicant testified in relevant part that he played professional soccer from October 2005 to February 20, 2017, for multiple teams including Club Chivas, FC Dallas, and the Los Angeles Galaxy. (MOH/SOE, 11/02/2022, 5:18-21.) Operating as a goalkeeper, he sustained violent impacts that resulted in continuous injuries to his head, neck, nose, shoulders, low back, fingers, hips, bilateral knees and right ankle. (MOH/SOE, 11/02/2022, 5:22-25.) He received constant medical treatment and undergoing multiple surgeries throughout his career, including procedures on his right knee, lower abdomen, bilateral shoulder

labrums, and a left hip replacement. (MOH/SOE, 11/02/2022, 6:2-5.) Applicant confirmed he provided complete and accurate medical histories to PQME Dr. Watkin, PQME Dr. Schreiber, and PQME Dr. Ross. (MOH/SOE, 11/02/2022, 6:6-7.) He described significant ongoing impairments to his activities of daily living (ADLs), noting limited range of motion, sleep disruption, constant discomfort in his left hip, and the anticipated need for a right hip replacement. (MOH/SOE, 11/02/2022, 6:9-17.) He currently attends physical therapy two to three times weekly to manage ongoing symptoms in his neck, right elbow, right ankle, and feet. (MOH/SOE, 11/02/2022, 6:18-21.)

On cross-examination, applicant confirmed he underwent left hip surgery in May 2022 and currently attends physical therapy and strengthening sessions four to six times a week. (MOH/SOE, 11/02/2022, 6:23-25 to 7:1-3.) He testified that he established a real estate investment business, Driven Capital Partners, in 2019, where he works 40 to 50 hours a week primarily at a desk, noting that driving and quarterly flights aggravate his neck, back and hips. (MOH/SOE, 11/02/2022, 7:5-10.) He admitted to engaging in limited recreational activities, specifically golfing with the use of a cart, and documented a daily reliance on cannabidiol oil and Aleve for pain management. (MOH/SOE, 11/02/2022, 7:11-16). Defense counsel conducted a chronological review of applicant's career injuries from 2008 to 2017, leading him to confirm a history of bilateral shoulder surgeries, a reattached left bicep, right knee surgeries, hernia repairs, and a lumbar spine injury. (MOH/SOE, 11/02/2022, 7:23-25 to 8:1-13.) Applicant concluded his testimony by confirming that his cumulative symptoms ultimately forced him to retire early from professional soccer in 2017. (MOH/SOE, 11/02/2022, 7:18-20 to 8:13.)

On January 31, 2023, the WCJ issued the Amended F&A, disaggregating the permanent disabilities for each body part with the parties to meet and confer to determine the final permanent disability rating.

In the Opinion, the WCJ stated as follows:

The parties are in disagreement with how multiple permanent disability ratings should be addressed, whether they be added or combined. The Court finds the bilateral shoulders can be added; however, all other body parts should be combined. Dr. Watkin's opinion is not substantial evidence wherein he described the applicant's inability to squat when he cannot bend nor bend when he cannot squat as necessitating the adding of permanent disability versus combining. The reason this troubles the Court is that the applicant testified that he plays golf (Minutes of Hearing and Summary of Evidence, 11/2/2022, page 7, line 12). Dr. Watkin noted this activity in his initial evaluation of 9/14/2018, yet did not discuss the applicant's ability to perform this sport in light of his Kite analysis of applicant's abilities.

(Opinion on Decision, 01/31/2023, pp. 8-9.)

It is from this Amended FA&O that applicant seeks reconsideration.

DISCUSSION

I.

The law requires the Appeals Board to base its decisions on substantial evidence. (Lab. Code, §§ 5903, 5952(d); *Lamb v. Workmen's Comp. Appeals Bd.* (1974) 11 Cal.3d 274 [39 Cal.Comp.Cases 310]; *Garza v. Workmen's Comp. Appeals Bd.* (1970) 3 Cal.3d 312 [35 Cal.Comp.Cases 500]; *LeVesque v. Workmen's Comp. Appeals Bd.* (1970) 1 Cal.3d 627 [35 Cal.Comp.Cases 16].) To constitute substantial evidence, a medical opinion must state its conclusions in terms of reasonable probability, avoid speculation, rely on pertinent facts and an adequate examination and history, and explain the reasoning supporting its conclusions. (*Escobedo v. Marshalls* (2005) 70 Cal.Comp.Cases 604, 621 (Appeals Board en banc).) Medical reports do not constitute substantial evidence when they contain known errors or rely on facts that are no longer germane, inadequate medical histories or examinations, or incorrect legal theories. Likewise, a medical opinion cannot support the Board's findings if it rests on surmise, speculation, conjecture, or guesswork. (*Heggin v. Workmen's Comp. Appeals Bd.* (1971) 4 Cal.3d 162, 169 [36 Cal.Comp.Cases 93].) Accordingly, the Board may reweigh the evidence and reach a decision different from the WCJ's determination when other evidence of substantial probative value supports a contrary conclusion. (*Lamb, supra*, 11 Cal.3d at p. 281; *Garza, supra*, 3 Cal.2d at pp. 318-319.)

Here, applicant's credible testimony and PQME Dr. Watkin's uncontroverted medical reporting vitiate the WCJ's conclusion of no industrial right hip injury. Applicant testified that his work activities caused symptomatology to both hips and that he anticipated having a right hip replacement. Corroborating this, PQME Dr. Watkin found emphatically that it related to the cumulative injury, assessed 10% WPI, and determined it to be a compensable consequence injury.

A finding of no industrial injury cannot stand when PQME Dr. Watkin's unrebutted expert medical opinion, synthesized with applicant's testimony, constitutes definitive proof of industrial injury. Accordingly, we amend the FA&O to encompass the right hip as a compensable body part.

II.

Permanent disability refers to the lasting, irreversible effects of an injury. It includes conditions that impair earning capacity, limit the normal use of a body part, or create a competitive disadvantage in the labor market. Permanent disability payments compensate workers for both

physical loss and the reduction, partial or total, of their future earning potential. (*Brodie v. Workers' Comp. Appeals Bd.* (2007) 40 Cal.4th 1313, 1320 [72 Cal.Comp.Cases 565].)

In *Department of Corrections and Rehabilitation v. Workers' Comp. Appeals Bd. (Fitzpatrick)* (2018) 27 Cal.App.5th 607 [83 Cal.Comp.Cases 1680], the Court concluded that impairments “are generally combined” using the CVC, but the “scheduled rating [under the CVC] is not absolute” and other methodologies may be used to calculate permanent disability. (*Id.* at pp. 613-614.)

For example, in *Kite*, the Appeals Board concluded that impairments resulting from a cumulative injury to the bilateral hips can be added together where substantial medical evidence supports a physician’s opinion that adding impairments will result in a more accurate rating of the level of disability than the rating that results from using the CVC. (See *De La Cerda v. Martin Selko & Co.* (2017) 83 Cal.Comp.Cases 567 (writ denied) [requires following a physician’s opinion as to the most accurate rating method if they provide a reasonably articulated medical basis for doing so and does not require use of the term “synergistic”].)

In *Vigil v. County of Kern* (2024) 89 Cal.Comp.Cases 686 (Appeals Board en banc), the Appeals Board held that an injured employee may rebut the CVC under the PDRS and combine impairments upon establishing the impact of each impairment on ADLs. To do so, the employee must demonstrate either that the rated body parts affect separate and distinct ADLs with no overlap, or that any overlap in the affected ADLs results in an increased or amplified overall functional impact. The Appeals Board explained that medical expertise is required:

In determining whether the application of the CVC table has been rebutted in a case, an applicant must present evidence explaining what impact applicant’s impairments have had upon their ADLs. Where the medical evidence demonstrates that the impact upon the ADLs overlaps, without more, an applicant has not rebutted the CVC table. Where the *medical evidence* demonstrates that there is effectively an absence of overlap, the CVC table is rebutted, and it need not be used.

(*Id.* at p. 692, italics added.)

Our en banc decision in *Vigil* issued on June 10, 2024, after our Opinion and Order Granting Petition for Reconsideration issued in this case on April 3, 2023, and is mandatory authority on all WCJs and Appeals Board panels. (Cal. Code Regs., tit. 8, § 10325(a); *City of Long Beach v. Workers' Comp. Appeals Bd. (Garcia)* (2005) 126 Cal.App.4th 298, 316, fn. 5; *Gee v. Workers' Comp. Appeals Bd.* (2002) 96 Cal.App.4th 1418, 1424, fn. 6; see also Govt. Code, § 11425.60(b).)

Here, the record is deficient regarding the method of calculating permanent disability considering *Vigil*. To rebut the CVC, an employee must present evidence explaining what impact their impairments have had upon their ADLs. Where the medical evidence demonstrates that there is effectively an absence of overlap in the impacted ADLs, or an amplified overall functional impact, the employee has rebutted the CVC. Here, PQME Dr. Watkin opined that adding applicant's impairments was appropriate because he cannot squat to spare his low back due to lower extremity joint injuries, and he cannot bend to spare his lower extremity joints due to his low back condition.

The WCJ rejected this analysis as not constituting substantial medical evidence, noting that PQME Dr. Watkin failed to discuss applicant's ability to play golf considering these stated restrictions. The record reflects that applicant engages in several ADLs, including working 40 to 50 hours a week primarily at a desk, driving to properties, taking quarterly flights, and playing golf with the use of a golf cart.

“[I]n order to ensure reliance on substantial evidence, and a complete adjudication of the issues consistent with due process,” the WCJ and the Appeals Board both have a duty to develop the record further where there is an absence of, or insufficient evidence to determine the issues raised for trial. (*Tyler v. Workers' Comp. Appeals Bd.* (1997) 56 Cal. App.4th 389, 393-395 [62 Cal.Comp.Cases 924] (*Tyler*); *McClune v. Workers' Comp. Appeals Bd.* (1998) 62 Cal.App.4th 1117, 1121-1122 [63 Cal.Comp.Cases 261]; see Lab. Code, §§ 5701 and 5906; *McDuffie v. Los Angeles County Metropolitan Transit Authority* (2001) 67 Cal.Comp.Cases 138, 139 (Appeals Board en banc).) Indeed, the Appeals Board has a constitutional mandate to “ensure substantial justice in all cases,” and is therefore “clearly permitted” to admit evidence even after the discovery cut-off under section 5502(d)(3). (*Kuykendall v. Workers' Comp. Appeals Bd.* (2000) 79 Cal.App.4th 396, 403-405 [65 Cal.Comp.Cases 264].) “[A]llowing full development of the evidentiary record to enable a complete adjudication of the issues is consistent with due process in connection with workers' compensation claims” and militates in favor of our presuming the continued vitality of sections 5701 and 5906, absent a clear legislative intention to the contrary. (*Tyler, supra*, 56 Cal.App.4th at p. 394.) An adequately developed record affords all parties due process of law and further provides for meaningful review by the Appeals Board of a WCJ's decision. (*Evans v. Workers' Comp. Appeals Bd.* (1968) 68 Cal.2d 753, 755 [33 Cal.Comp.Cases 350]; *Hernandez v. Staff Leasing* (2011) [76 Cal.Comp.Cases 343, 346-347] (Appeals Board significant panel decision).)

Pursuant to sections 5701 and 5906, a WCJ or the Appeals Board may not leave undeveloped issues that, through the exercise of their specialized knowledge, recognizes as requiring further evidentiary development. (*Kuykendall, supra*, 79 Cal.App.4th at p. 404.)

Under the current *Vigil* standard, PQME Dr. Watkin's analysis is incomplete because it does not adequately address how the combined effects of applicant's impairments affect his specific ADLs. Specifically, PQME Dr. Watkin must provide supplemental reporting to reconcile applicant's admitted ADLs, such as golfing and extensive desk work, with PQME Dr. Watkin's conclusions regarding overlapping restrictions on bending and squatting. Therefore, we must return this matter to the trial level to allow the parties to further develop the record so that PQME Dr. Watkin can conduct a complete overlap analysis of applicant's ADLs as required by *Vigil*.

Accordingly, as our Decision After Reconsideration, we rescind the WCJ's January 31, 2023 Amended F&A and substitute a new F&A finding industrial injury to the head, neurological system, cervical spine, lumbar spine, bilateral shoulders, right elbow, bilateral hips, right knee, right ankle, bilateral feet and internal system (in the form of inguinal hernias) and deferring the issues of permanent disability, apportionment and attorney fees. We otherwise make no substantive changes.

IT IS ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the Amended Findings, Award and Order issued by the WCJ on January 31, 2023 is **RESCINDED** and the following is **SUBSTITUTED** therefor:

FINDINGS OF FACT

- A. Daniel Kennedy, while employed during the period April 2, 2005 to February 20, 2017, as a professional athlete, occupational group number 590, at various cities and states including California, by Major League Soccer, LLC dba Los Angeles Galaxy, during the last year of injurious exposure, sustained injury arising out of and in the course of employment to his head, neurological system, cervical spine, lumbar spine, bilateral shoulders, right elbow, bilateral hips, right knee, right ankle, bilateral feet and internal system (in the form of inguinal hernias), but not to his right hamstring.
- B. The issue of permanent disability is deferred.
- C. The issue of apportionment is deferred.
- D. Applicant is in need of further medical treatment to cure or relieve the effects of his industrial injury.
- E. The issue of attorney fees is deferred.

F. Based upon a reading of the Petition for Penalties by applicant and defendant's objection thereto, the Court does not find good cause to award penalties.

AWARD

AWARD is made in favor of Daniel Kennedy, against Great Divide Insurance Company, administered by Berkley Entertainment, as follows:

1. Further medical treatment in accordance with Findings of Fact D above.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ JOSEPH V. CAPURRO, COMMISSIONER

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

May 15, 2026

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

**DANIEL KENNEDY
LEVITON, DIAZ & GINOCCHIO, INC.
BOBER, PETERSON & KOBY, LLP
PEARLMAN, BROWN & WAX, LLP**

DLP/md

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