

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

JOSE VERDIN, *Applicant*

vs.

**CHRISTOPHER HARNEY; STEVE RICHINS dba STEVE RICHINS CONSTRUCTION,
illegally uninsured; UNINSURED EMPLOYERS' BENEFITS TRUST FUND, *Defendants***

**Adjudication Numbers: ADJ14196000; ADJ14490442
Oakland District Office**

**OPINION AND ORDER
DENYING PETITION FOR
RECONSIDERATION**

Defendant, Christopher Harney, seeks reconsideration of the Findings and Award (F&A) issued by the workers' compensation administrative law judge (WCJ) on May 28, 2026. The WCJ found, in relevant part, that while employed as a laborer on September 30, 2020, applicant sustained injury arising out of and in the course of employment (AOE/COE) to his left hip, left knee, head, and headaches (ADJ14196000), and while employed as a laborer on October 21, 2020, applicant sustained injury AOE/COE to his neck, head, shoulders, and lumbar spine (ADJ14490442). The WCJ further found, in relevant part, that applicant was employed by both Steve Richins, dba, Steve Richins Construction and the homeowner, Christopher Harney, and that the employer was uninsured. The WCJ further found the injuries caused the need for further medical treatment, and awarded future medical care, deferring all other issues pending development of the record.

Defendant requests the F&A be vacated arguing that the opinions of the panel qualified medical evaluator (QME), Michael Lawson, D.C., do not constitute substantial medical evidence as they are based on an inaccurate medical history and subjective reporting from the applicant, who cannot reasonably be viewed as credible. (Petition, at p. 3.)

We have received an Answer from applicant.

The WCJ issued a Report and Recommendation on Petition for Reconsideration (Report) recommending that the Petition be denied.

We have considered the allegations of defendant's Petition and the Answer, and the contents of the WCJ's Report. Based on our review of the record and for the reasons discussed below, as well as the reasons stated in the WCJ's Report, which we adopt and incorporate, we will deny reconsideration.

DISCUSSION

I.

Up through July 1, 2024, petitions for reconsideration were subject to former Labor Code section 5909¹, which 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.)

During the period from July 2, 2024 through June 30, 2026, petitions for reconsideration were subject to former section 5909, which stated 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.

Under section 5909(a) (in effect from July 2, 2024 through June 30, 2026), 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 cases were transmitted to the Appeals Board on July 9, 2026 and 60 days from the date of transmission is Monday, September 7, 2026, a holiday. The next business day that is 60 days from the date of transmission is Tuesday, September 8, 2026.

¹ All section references are to the Labor Code, unless otherwise indicated.

(See Cal. Code Regs., tit. 8, § 10600(b).)² This decision is issued by or on Tuesday, September 8, 2026 so that we have timely acted on the petition as required by section 5909(a) (in effect from July 2, 2024 through June 30, 2026).

Section 5909(b)(1) (in effect from July 2, 2024 through June 30, 2026) 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) (in effect from July 2, 2024 through June 30, 2026) 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 July 9, 2026, and the cases were transmitted to the Appeals Board on July 9, 2026. Service of the Report and transmission of the cases 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) (in effect from July 2, 2024 through June 30, 2026), because service of the Report in compliance with Labor Code section 5909(b)(2) (in effect from July 2, 2024 through June 30, 2026) provided them with actual notice as to the commencement of the 60-day period on July 9, 2026.

II.

In addition to the analysis set forth in the WCJ's Report, we observe the following.

We generally accord great weight to a WCJ's findings on the credibility of witnesses as the WCJ had the opportunity to observe the demeanor of the witness. (*Garza v. Workmen's Comp. Appeals Bd.* (1970) 3 Cal.3d 312, 319 [35 Cal.Comp.Cases 500].) When a WCJ's findings are supported by solid, credible evidence, they are to be accorded great weight by the Board and rejected only on the basis of contrary evidence of considerable substantiality. (*Lamb v. Workmen's Comp. Appeals Bd.* (1974) 11 Cal.3d 274 [39 Cal.Comp.Cases 310]; *Garza, supra*, at p. 318.)

Here, the WCJ found applicant's trial testimony concerning the injuries to be persuasive, credible, and consistent with the reporting by the panel QME. (Report, at pp. 5, 8.) Following our

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.

independent review of the evidentiary record, the pleadings of the parties, and the WCJ's Report, we agree with the WCJ and are not persuaded that "evidence of considerable substantiality" warrants disturbing the WCJ's factual determination that applicant met the burden of proving, to a preponderance of the evidence, industrial injury. (*Lamb, supra*, at p. 281; *Garza, supra*, at pp. 798-799.) Defendant's arguments regarding applicant's lack of credibility are not persuasive. Based thereon, we decline to disturb the WCJ's factual determinations with respect to the issue of injury AOE/COE.

Accordingly, defendant's Petition is denied.

For the foregoing reasons,

IT IS ORDERED that defendant's Petition for Reconsideration of the WCJ's decision issued on May 28, 2026 is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ PAUL F. KELLY, COMMISSIONER

I CONCUR,

/s/ CRAIG L. SNELLINGS, COMMISSIONER

/s/ KATHERINE WILLIAMS DODD, 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.

**JOSE VERDIN
WELTIN LAW, P.C.
OFFICE OF THE DIRECTOR-LEGAL UNIT (OAKLAND)
LAUGHLIN, FALBO, LEVY & MORESI**

JL/abs

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

REPORT AND RECOMMENDATION ON PETITION
FOR RECONSIDERATION AND NOTICE OF
TRANSMISSION TO WCAB

I

INTRODUCTION

1. Dates of injury: September 30, 2020; October 21, 2020
2. Identity of Petitioner: Defendant
3. Timeliness: Timely
4. Verification: Verified
5. Date of Findings & Award: May 28, 2026
6. Petitioner's Contentions:
 1. That by the Findings and Award made and filed by the Workers' Compensation Judge, the Appeals Board acted without or in excess of its powers.
 2. That the evidence does not justify the findings of fact.
 3. That the findings of fact do not support the Findings and Award.

II

STATEMENT OF FACTS
Background

Jose Verdin, born [...], while allegedly employed on September 30, 2020 (ADJ14196000), and on October 21, 2020 (ADJ14490442), as a laborer, Occupational Group No. 480, at Napa, California, by Steve Richins dba Steve Richins Construction, Christopher Harney, claims to have sustained injury arising out of and in the course of employment to the left hip, left knee, head, and headaches (ADJ14196000); and neck, head, shoulders, and lumbar spine (ADJ14490442). The employer was uninsured. Defendants denied both injuries AOE/COE.

The case went to trial and three witnesses testified, including the Applicant, Ms. Gloria Cortez and the homeowner and employer, Christopher Harney. Testimony of his employer, Mr. Richens, who owned and operated Steve Richins Construction, was presented by way of deposition, as he passed prior to the trial.

Applicant worked at 2485 Pope Canyon Rd. in St. Helena, California, and was hired by the contractor, Steve Richens, in June 2017, as a carpenter. He worked at that location working on the main house, building a boathouse, gathering the wood and helping the contractor.

Steve Richins was his supervisor, and he gave the applicant his daily instructions on what to do for the construction work. His daily duties included coming to work in the morning, and after helping with the animals first for the property owner, he would then start to work with Steve Richins performing construction work.

For the owner of the property, Mr. Christopher Harney, he would help him with the property as needed, such as, working on trees or whatever the owner needed to be done. When they would take the garbage to the dump, he would be paid by the owner of the property, Christopher Harney. As discussed above, the applicant would also help with taking care of the animals for the owner, Mr. Chris Harney, on the property as well, and was paid separately by the owner for work he did for him on the property.

Regarding the first injury DOI: September 30, 2020, he testified he was using an extension ladder about 20 to 30 feet long and was working at the height of about 16 feet up. The ladder he was standing on was leaning against a beam, and the applicant was handing up to Mr. Richens who was standing above him on a platform, a piece of plywood and then asked if he had it, and Mr. Richens said yes, but Mr. Richens then let go of the wood, and it hit applicant and he fell off the ladder onto the ground.

He had a second injury of October 21, 2020 and on that day the applicant was finishing work up on a ladder and he was taking the tools down from a platform above. Mr. Richens, his employer, was lowering a chop saw that weighed about 50 to 60 pounds, tied to a rope that Mr. Richens was holding, when the chop saw hit the applicant. The applicant testified that the chop saw had been tied with a rope to the handle and was being lowered down by Mr. Richens and that it was about halfway down to the bottom, and the applicant didn't know if it slipped or what happened, but it hit him.

After the injury, the applicant had injections in the neck and in his left knee. He got a little relief from the injections, and they would last about 4 to 5 months. During the 4 to 5 months of relief, he was able to do more activities like going on walks.

The applicant received treatment after this injury at a clinic where an MRI was done and medication was prescribed. He also went to a chiropractor and to Adventist Heath for treatment. When asked if Steve Richens helped him pay for any treatment, the applicant mentioned the MRI to him, and Mr. Richens said he would help with everything. Mr. Richens did give him some payments for treatment but not for everything.

Mr. Harney, the owner of the property and the house being built, also was informed of the injuries. The applicant informed him and mentioned the MRI to him and that he would need more studies, medication and possible surgery.

His current source of income is selling wood that PG&E brings to him. He started doing this in 2023 and he does have a log splitter, and he used to operate the log splitter but doesn't at the current time. He testified that another person would prepare the wood for firewood and not the applicant. The wood did have to be split. He did have a wood splitter at the White house residence, as well as chainsaws, and other people would use the chainsaws.

He testified that Gloria Cortez and a man named, Mr. Nelson, went to different locations to pick up wood. The applicant testified that he wasn't picking up the wood but rather would tell them how to do it. He would pick up small pieces or walk along with them, but he did not pick up the heavy pieces and he could not recall if he picked up a log or a piece of wood but if he did, they were not very heavy.

Defendants had Ms. Cortez, an ex-girlfriend of the applicant, testify. She testified that she was living with the applicant in the past after the injuries and that he did collect and prepare and sell wood to local businesses. She testified that there was a wood-splitter on the property where they lived that she and another man operated and at times the applicant operated. She further testified at the house where they both lived, the driveway was re-done, and Mr. Verdin worked on that project and spread the gravel over the driveway.

Mr. Christopher Harney, the owner of the property 2483 Hope Canyon Road. testified that Mr. Verdin did provide services to him and he did some other tasks for the witness and he paid Mr. Verdin for that work through 2021. The duties included feeding the animals, and some incidental things like fixing the fence. Mr. Verdin continued to care for the animals until the witness was told not to have Mr. Verdin on his property, so the witness wrote an email to Mr. Verdin that he could no longer have him feed his animals.

Mr. Verdin told Mr. Harnney that he got hurt and the witness told Mr. Verdin that he had better go see a doctor and Steve Richens said it would be paid for and to go to a chiropractor. Mr. Verdin showed the witness the papers and told him he needed spinal surgery. He first heard about the applicant being injured when Mr. Verdin approached him with paperwork that said he might need spinal surgery.

III

DISCUSSION

1. Injury AOE/COE

An employee bears the burden of proving injury AOE/COE 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.) The Supreme Court of California has long held that an employee need only show that the "proof of industrial causation is reasonably probable, although not certain or 'convincing.'" (McAllister v. Workmen's Comp. Appeals Bd. (1968) 69 Cal.2d 408, 413 [33 Cal.Comp.Cases 660].) "That burden manifestly does not require the applicant to prove causation by scientific certainty." (Rosas v. Workers' Comp. Appeals Bd. (1993) 16 Cal.App.4th 1692, 1701 [58 Cal.Comp.Cases 313]. In order for an injury to be compensable, an injury must arise out of and in the course of employment. Additionally, a WCJ's decision on any issue, including injury AOE/COE or the date of injury, must be supported by substantial evidence. (Lab. Code, §§ 5903, 5952(d); Lamb v. Workmen's Comp. Appeals Bd. (1974) 11 Cal.3d 274; Garza v. Workmen's Comp. Appeals Bd. (1970) 3 Cal.3d 312; LeVesque v. Workmen's Comp. Appeals Bd. (1970) 1 Cal.3d 627.) To constitute substantial evidence "... a medical opinion must be framed in terms of reasonable medical probability, it must not be speculative, it must be based on pertinent facts and on an adequate examination and history, and it must set forth reasoning in support of its conclusions." (Escobedo v. Marshalls (2005) 70

Cal.Comp.Cases 604, 621 (Appeals Board en banc).) Also, the relevant and considered opinion of one physician, though inconsistent with other medical opinions, may constitute substantial evidence. (*Smith v. Workmen's Comp. App. Bd.*, 71 Cal.2d 588, 592; *Place v. Workmen's Comp. App. Bd.*, 3 Cal.3d 372, 378.)

2. Medical Evidence/Testimony

In this case, Michael Lawson D.C. served as the Panel Qualified Medical Examiner, and his reports were submitted into evidence to address the medical legal issues of causation, permanent disability, apportionment, as well as the need for medical treatment and other medical legal issues. Treatment reports documenting the injuries and treatment thereafter were in evidence as well.

Dr. Lawson documents the injuries in his reports as follows:

“INJURY #1: On September 30, 2020, Mr. Verdin was performing his usual work. Mr. Verdin states: "I was lifting sheets of plywood. I was on a ladder 8 feet up from the ground. I passed a sheet to a co-worker above me. It slipped out of his grasp hitting me on my head. I felt I could faint. I saw "black" falling down the ladder onto my left knee onto the cement." Mr. Verdin *was* taken to Queen of the Valley Hospital Urgent Care. Mr. Verdin is claiming injuries to his left knee, left hip and head. It is not clear to me when Mr. Verdin returned to work or what treatment he received. He did get x-rays and was prescribed Norco, Nortriptyline and tramadol for pain.

INJURY #2: On October 21, 2020, approximately 3 weeks after injury #1, Mr. Verdin was performing his usual work. Mr. Verdin states: "I was on the ladder about 6 feet up. The boss, Steve, dropped the 50-pound chop saw and it hit me on the head (trying to bring the chop saw down the ladder). I held onto the ladder afraid of falling. My left knee and left leg/hip was still painful from injury #1. I slowly climbed down feeling poorly. I went home."

Again, Mr. Verdin went to Queen of the Valley Urgent Care. Then he saw Dr. Lazarus in Napa and no treatment was provided. X-rays, Norco Nortriptyline and tramadol were prescribed. A one-week supply of medication was given to Mr. Verdin.

(Exhibit 1, Report of Michael Lawson D. C., September 11, 2021, pp. 2 – 3.)

In his first evaluation report, the Panel QME did find injury AOE/COE for both above injuries, and he concluded the mechanism of injury was consistent with the applicant's complaints and he based his opinion on reasonable medical probability.

Dr. Lawson stated the following:

I feel the mechanism of Mr. Verdin's injury is consistent with his claimed injury. Therefore, causation is well established. My opinions in this report are based on

reasonable medical probability. the records received and reviewed, Mr. Verdin's completed paperwork, examination findings, history of injury as told by Mr. Verdin, radiographic reports supplied to me and careful listening to the patient. (Exhibit 1, Report of Michael Lawson D. C., September 11, 2021, p. 59.)

Dr. Lawson concluded that the applicant was unable to return to his previous usual and customary job. (Id.)

The applicant's testimony concerning the injuries above was consistent with the reporting of the Panel QME. The testimony of the employer, Mr. Richens, taken by way of deposition, was consistent with the description of the two injuries, although with respect to the second injury DOI: 10/21/2020, Mr. Richens testified in his deposition that he was lowering a 50 pound chop saw that was tied to a rope, which the applicant was bearing the weight of the saw, but Mr. Richens stated that he did not let go of the rope to which the chop saw was tied.

In his re-evaluation report, the Panel QME concluded that the applicant was permanent and stationary and with respect to the issue of permanent disability, Dr. Lawson's opinion of the level of impairment for the body parts pled, including the head, neck, back, knee, hip, left shoulder and headaches, is addressed in the same report. (Id. at pp. 29 – 31.) In reaching his conclusions regarding impairment, he based his findings on his evaluations of the applicant, review of the medical records and the diagnostic testing.

Dr Lawson assigned impairment as follows:

Impairment Summary:
Head - 1 % pain addon
Cervical Spine:
ROM Method - 13%
DRE Method - 15%-18%
Left Shoulder: 21 %
Lumbar Spine:
ROM Method - 13%
DRE Method-10%-13%
Pain Addon - 1 %
Left Knee: 0%
Pain Addon - 1 %

I will leave it up to the rater to determine the final numbers.

(Exhibit 2, Report of Michael Lawson D. C., July 17, 2024, pp. 29 – 31.)

Regarding apportionment, Dr. Lawson concludes the following:

APPORTIONMENT:

Apportionment does not apply with this case. He had a prior right shoulder surgery, but his right shoulder is not an accepted body part. He had a prior MVA many years ago without consequences. There are no prior awards or prior injuries to consider apportionment. Therefore his work-related injury on 10/21/2020 is 100% responsible for his current complaints.

The Panel QME opined that further medical treatment was needed stating that “Additional pain management visits should be authorized for 1 time per month or more if needed for injections. Additional medication should be authorized as needed. An option for future surgery should be authorized. Additional physical therapy visits should be authorized.”

The reports of the Panel QME document the extensive treatment the applicant received in this case, including injections, physical therapy, acupuncture, medications and diagnostic testing. The medical record review outlines the pertinent excerpts from the medical records. Based on the above, the medical records document the injuries he sustained as well as the body parts injured and the continuing complaints as a result of the injuries.

Regarding the first injury, the applicant’s employer, Mr. Richens, testified in his deposition that he was present and witnessed the first injury on 9/30/2020, when the piece of plywood was dropped on Mr. Verdin and he fell off the ladder onto the ground below. He further testified regarding the DOI: 10/21/2020, that Mr. Verdin did report that injury to him and informed him that he needed medical treatment. (Joint 101, Deposition of Mr. Richens, p. 56:1 – 56:8.)

Regarding the second injury of 10/21/2020, Mr. Richens testified that a chop saw was tied to a piece of rope and was carried by Mr. Verdin on his shoulder down a ladder and Mr. Richens stated that Mr. Verdin did report to him that following Monday, that he hurt his neck as a result of the incident involving the chop saw and that he had seen a doctor for the injury. (Id. p. 59.) Mr. Richens testified in his deposition that he asked the applicant if he needed medical attention and the applicant said yes and that the applicant provided him with a treatment report after the injury, and Mr. Richens did pay for some of the treatment after the injury.

It was noted that there was a difference between the testimony of the Applicant and that of Mr. Richens regarding how the 10/21/2020 injury occurred. The Applicant stated that the chop saw was dropped or slipped and hit him as it was lowered by the rope, while Mr. Richens testified that he did not think an injury occurred as a result of lowering the chop saw, as Mr. Verdin was carrying it on his shoulder and Mr. Richens denied ever dropping it on Mr. Verdin. Mr. Richens testified that Mr. Verdin did reach the ground with the chop saw and then placed it upon two sawhorses. (Id. at pp. 62 – 63.)

Both the Applicant and Mr. Richens testified that Mr. Verdin reported the 10/21/2020 injury on the following Monday, as a result of the incident with the chop saw, and that the applicant provided Mr. Richens with a treatment report after the injury and Mr. Richens did pay for some of the treatment after the injury. The Panel QME further found causation for both the 10/21/2020 injury as well as the 9/20/2020 injury and he documented the medical records he reviewed concerning the injuries in his evaluation reports.

The claim was denied so the applicant had to obtain treatment on his own behalf. In the Stipulations, it is indicated the reports of Panel QME of Micheal Lawson had not yet been paid.

Based on the above, the findings of the Panel QME, Dr. Lawson constitute substantial medical evidence to support the finding of industrial AOE/COE causation of the injury DOI: 9/30/2020 (ADJ14196000) to the left hip, left knee, head, and headaches and the injury DOI: 10/21/2020 to the neck, head, shoulders, and lumbar spine.

As discussed above, applicant's testimony presented at trial, coupled with the opinion of the Panel QME, supports the finding of injury AOE/COE for both injuries in this case. Only 1% causation is needed to establish injury AOE/COE. Further, even though Mr. Richens denied that he dropped the chop saw on Mr. Verdin on 10/21/2020, and in his opinion, there was no resulting injury, he did testify that the incident took place, in that he lowered the chop saw on a rope on 10/21/2020 and Mr. Verdin carried it down the ladder. His deposition testimony was also consistent with that of Mr. Verdin, when he stated that after the chop saw incident, Mr. Verdin reported the injury to his employer (Mr. Richens) the following Monday and provided him with a treatment report and requested medical treatment and that Mr. Richens did pay for some of the treatment.

Concerning the first injury DOI: 9/30/2020, the deposition testimony of the employer, Mr. Richens, was consistent with that of the Applicant, and both witnesses stated that a piece of wood was dropped on the Applicant and Mr. Verdin fell off a ladder on that date.

Subsequent to that, both claims were denied AOE/COE and the applicant thereafter obtained treatment on his own behalf.

Since Defendant's Petition for Reconsideration contested the finding of injury AOE/COE only, I am not addressing the other Findings, Award and Orders in the Findings & Award that stem from the AOE/COE finding of injury, however, it should be noted that such other Findings, Award and Orders are supported by the record.

Weighing the evidence presented at trial, I did find the Applicant's testimony persuasive and credible concerning the issue of AOE/COE and both his testimony, as well as that of his employer, Steven Richens by way of deposition, consistently supported the determination that the two injuries occurred. This finding was further supported by the medical treatment reports and the reports of the Panel QME , Dr. Lawson, who found industrial causation.

Based on the above, it was properly determined that injury AOE/COE was established for both injuries as issue in this case and such a finding was based on the substantial medical evidence.

IV

RECOMMENDATION

Based on the forgoing, it is recommended that the Petition for Reconsideration be denied.

NOTICE OF TRANSMISSION TO THE APPEALS BOARD

On July 9, 2026, this matter was transmitted to Recon unit.

DATE: 7/9/26

Sarah Carr
WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE