

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

LAWRENCE THOMPSON, *Applicant*

vs.

**HOBBY LOBBY STORES, INC., insured by
ACE AMERICAN INSURANCE COMPANY, *Defendants***

**Adjudication Number: ADJ18042476
Sacramento District Office**

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

Applicant seeks reconsideration of the Findings of Fact and Award (F&A) issued by the workers' compensation administrative law judge (WCJ) on May 14, 2026, which found in relevant part that applicant sustained injury arising out and in the course of employment to his low back and shoulders while employed as a stockman/retail laborer for defendant on April 14, 2023; that applicant's occupational group is 360; and that applicant's injury caused permanent disability of 35 percent.

Applicant contends that the WCJ incorrectly rejected an alternative assessment of impairment that was based on an "*Almaraz/Guzman*" rating (See *Milpitas Unified School Dist. v. Workers' Comp. Appeals Bd.* (referred to herein as *Almaraz/Guzman*) (2010) 187 Cal.App.4th 808 [75 Cal.Comp.Cases 837]). Applicant further contends that the applicable occupational group number in the permanent disability rating schedule (PDRS) is 470.

We have not received an Answer from defendant.

The WCJ has prepared a Report and Recommendation on Petition for Reconsideration (Report), recommending that we deny reconsideration.

We have considered the contents of the Petition, the Answer, the WCJ's Report, and the record herein. For the reasons set forth below, we will grant the Petition for Reconsideration, and

as our Decision after Reconsideration we will rescind the F&A and substitute a new F&A that defers the issues of permanent disability, attorney's fees and the occupational group number, and return the matter to the trial level for further development of the record.

FACTS

On April 28, 2026, the parties proceeded to trial. Issues submitted for decision included permanent disability, apportionment, and occupational group number, with applicant claiming that the occupational group number is 470, and the employer claiming the group number is 214. (Minutes of Hearing and Summary of Evidence, April 28, 2026 (MOH) p. 2, lines 21-25.)

The parties stipulated that applicant sustained an industrial injury to the low back and shoulders on April 14, 2023. (*Id.* at p. 2, lines 5-7.) The parties both relied upon the medical expert opinions of Qualified Medical Evaluator (QME) David Smolins, M.D. (Joint Exhibits 1- 6).

In his report dated September 26, 2025, the QME found that applicant had reached maximal medical improvement. Dr. Smolins assessed percentages of permanent impairment for the low back and shoulders using the AMA Guides to the Evaluation of Permanent Impairment (AMA Guides, or Guides). His assessment of impairment of the lumbar spine is as follows:

Utilizing the AMA Guides 2001, Fifth Edition, chapter 15, page 384, table 15-3, he falls into DRE Lumbar Category II with an 8% whole person impairment...

...As per the Almaraz-Guzman decision, one may analogize to a separate corner of the Guides. Mr. Thompson is found to have an 8% whole person impairment for the lumbar spine as per the strict rating. However, the Guides in their strictest sense do not accurately take into account the limitations in activities of daily living. Said another way, one would not expect an 8% whole person impairment given the limitations in his ADLs as noted in today's reporting. He would more accurately be rated via chapter 6, page 136, table 6-9 in Class II. His injury correlates with a Class II, noting frequent discomfort which precludes heavy lifting, but not hampering some activities of daily living. This accurately describes Mr. Thompson and yields a 15% whole person impairment.

(Joint Exhibit 5, QME report of David Smolins, M.D., September 26, 2025, pp. 12-13.)

In his supplemental report of November 23, 2025, the QME corrected some typographical errors in his assessment of impairment of the shoulders and explained his recommendation that percentages of disability of the back and shoulders be added and not combined because their effects on activities of daily living overlap but also amplify each other. In the supplemental report, the QME does not discuss his *Almaraz/Guzman* rating of lumbar spine impairment. (Joint Exhibit 6, QME report of David Smolins, M.D., November 23, 2025, pp. 1-2.)

Defendant cross-examined the QME regarding his *Almaraz/Guzman* rating on February 24, 2026, as follows:

Q Let's turn to page 12 of that September 26, 2025, report. That's where your discussion section starts and where there's impairment to the lumbar spine.

Doctor, per the strict AMA Guides you placed the applicant in DRE Lumbar Category II with 8 percent whole person impairment; is that correct?

A Correct.

Q Okay. You went on to utilize *Almaraz/Guzman* analogizing to the hernia sections and placing the applicant in Class II with 15 percent whole person impairment, and stating that the impairment was awarded given the limitations in his activities of daily living as noted in today's reporting; was that correct, Doctor?

A Yes.

Q And then I note in the ADL section of your report, I believe it's on page 3, you just referred to the ADL worksheet. So what specific ADLs from that worksheet justify utilizing the rating by analogy in this case?

A So the ADL worksheet does note limitations in lifting and carrying, and the hernia Table notes Class II of frequent discomfort precluding heavy lifting, but not hindering activities of daily living.

So the ADL worksheet does list a number of ADLs that can be done, and the patient has frequent discomfort and is precluded from heavy lifting. This is delineated both in my current complaints section, as well as in the ADL worksheet.

Q And, Doctor, are those ADL deficits not accounted for or captured in the DRE II?

A That's correct.

Q In your September 26, 2025, report, and then also in your supplemental report from November 23, 2025, you apply the Vigil case to add impairments for the right shoulder, the left shoulder, and the lumbar spine.

Now, I'm sure, as you're aware, Doctor, the Vigil case gives two scenarios in which the combined values chart can be rebutted and alternative methods can be used for adding impairment, and it looks like you applied the second scenario, which is that there is overlap but it increases or amplifies the impacts on the overlapping ADLs; correct?

A Correct.

Q And in the November 23, 2025, supplemental report, you went through the specific ADLs considered under the Vigil analysis. For adding the lumbar spine to the shoulders, you pointed to a loss of lifting, cleaning house with the bending of the back, or reaching with the bilateral shoulders. Worse pain in the shoulders and back when cooking, and then carrying only medium-weight objects. Push/pull very lightweight objects.

Is that a fair summary of that reporting?

MR. MAKADA: Actually, I'm going to object. Go to the next paragraph. That's not an accurate summary. Misstates the evidence.

The next paragraph says about all the cleaning, lifting, pushing, pulling, all that. There's two paragraphs.

MR. SANTOS: I know. Did I not mention the cooking, the pushing, and pulling? I thought that was literally the last --

MR. MAKADA: All right. That's fine.

BY MR. SANTOS:

Q Okay. So, Doctor, we went through the ADL deficits that you mentioned for the application of Almaraz/Guzman, which you included was the preclusion from heavy lifting. So, correct me if I am wrong, but you used the same or similar deficits to apply -- to use Almaraz/Guzman to increase the lumbar spine impairment, but also those same or similar ADLs for the application of Vigil. Did it give you any pause or make you give any further consideration for the fact that it's the same or similar basis for both of those?

A. No. As you can see, there are a number of overlap[ping] amplified functional deficits between the bilateral shoulders and the low back.

Q So you don't believe that that's an excessive increase in impairment considering that the bases for both of the increases are the same or similar?

A. No.

Q Okay. And why not?

A The Almaraz/Guzman allows for one to analogize to a separate corner of the Guides that better captures the limitations and functions, which was done. The Vigil analysis notes that in scenario 2, that if there's an amplified overlap -- if there's an overlap and it results in amplification and loss of ADLs, then one may rebut the CVC, which was applied in the Vigil analysis. So those are separate.

(Joint Exhibit 1, Deposition transcript of QME David Smolins, M.D., February 24, 2026, pp. 6-10.)

Defendant submitted a job description that was undated, unsigned, and did not appear to pertain to any particular position. It stated that the following are some of "the essential job functions that all store personnel at Hobby Lobby must be able to perform on a regular basis":

- UNDERSTAND AND COMMUNICATE ORALLY AND IN WRITING
- CHOOSE AND APPLY THE RIGHT MATHEMATICAL METHODS OR FORMULAS TO SOLVE A PROBLEM AND TO ACHIEVE TASKS
- HANDLE NORMAL OR CUSTOMARY WORK STRESSORS OR PRESSURES AND MAINTAIN AN APPROPRIATE WORK PACE

- REMEMBER INFORMATION SUCH AS WORDS, NUMBERS, PICTURES, PROCEDURES AND INSTRUCTIONS (APPLYING INSTRUCTIONS AND FOLLOWING THEM)
- ARRANGE THINGS OR ACTIONS IN A CERTAIN ORDER OR PATTERN ACCORDING TO A SPECIFIC RULE OR SET OF RULES (E.G. PATTERNS OR NUMBERS, ORDERING WEEKLY ITEMS)
- LIFT A MINIMUM OF FORTY (40) POUNDS
- CLIMB UP/DOWN LADDERS WITH A MINIMUM OF TWENTY (20) POUNDS
- LIFT OVERHEAD WHILE MOVING MERCHANDISE FROM TOP SHELVES
- REPETITIVE BENDING AND STOOPING WHILE RESTOCKING SHELVES
- PRECISELY COORDINATE MOVEMENTS OF THE FINGERS AND HANDS TO GRASP, MOVE, MANIPULATE OR ASSEMBLE OBJECTS AND HAVE ADEQUATE DEXTERITY AND STRENGTH TO COMPLETE TASKS
- STAND AND WALK FOR A MINIMUM OF EIGHT (8) HOURS, EXCLUDING BREAKS
- MULTI-TASK
- WORK IN ENVIRONMENTS THAT MAY INCLUDE DUST AND FLUCTUATING TEMPERATURES (HEAT/COLD)
- WORK IN DIFFERENT AREAS OR POSITIONS AND PERFORM TASKS IN THE STORE
- WORK OVERTIME AS NEEDED AND TO COMPLY WITH THE WORK SCHEDULE
- CONSISTENTLY BE AT WORK AND ON TIME ACCORDING TO THE WORK SCHEDULE

(Defendant's Exhibit H, p. 1, caps in original.)

At trial, applicant testified in pertinent part as follows.

He started working at Hobby Lobby in 2023 as a seasonal full-time employee. During a typical day at work he worked on the floor, put up displays, worked in the warehouse, used conveyor belts and hand trucks, put together islands, and adjusted clearance and seasonal islands. He estimated that he lifted boxes weighing between 25 to 75 pounds every day, all day, and especially while he was working in the warehouse. He unloaded trucks every Wednesday and staged and started unboxing products. He would use the hand truck to load products onto a conveyor belt to take them upstairs, where he unloaded them. He repeated this process throughout the day, either by himself or with one other person. (MOH, at pp. 5-6.)

He explained that he also assembled furniture, ornaments, and various products for different areas on the floor. He used a hand truck to bring out the products to the floor and then manually put up and took down displays. He moved metal shelves, which he estimated to weigh between 5 to 10 or 20 pounds. The shelves fit into metal brackets that together weigh 20 to 40 pounds, depending upon the number of brackets that were needed for a particular display. He also used a hand truck to move islands made of solid particleboard with plastic borders all the time, and he estimated that these weighed up to 200 pounds. It took two to three people to move an island. The island was then bolted to the floor. The islands measured approximately 6 to 8 feet by 3 to 4 feet. Setting up the island could take up to a day or two, depending upon the setup and the season. Displays changed every month and varied in accordance with the products that were placed on each island. He also set up the aisles, which measured about 30 to 40 feet long and could be 2 to 3 feet deep depending upon the displays that needed to be set up. (*Id.* at p. 6, lines 3-20.)

Applicant further explained that he split his time between working in the warehouse and working on the floor. Some days he worked the entire day in the warehouse by himself, and on other days he worked with other employees; it varied. Sometimes he set up an island by himself, and sometimes he did it with another employee. He got help moving the islands, but he usually put up the displays by himself. He set up the shelving by himself, and the weight of each shelf varied depending upon the size of the shelf. The shelves were solid metal and he estimated again that they weighed between 5 to 10 pounds. The number of shelves he put up varied with each display. He used a hand truck to move products. He felt that his job was very physical, and it involved loading, unloading, and assembly. (*Id.* at pp. 6-7.)

Applicant's job title when he was hired was "seasonal full time." He spent at least four to five hours of his day lifting heavy items. He considers heavy to be approximately 50 pounds or more. He also considers 10 pounds to be pretty heavy. He stocked shelves every day with items such as hand towels, bath towels, candles, yarn, picture frames, storage trays, paper plates, napkins, and soap dispensers. The items he put onto the display did not all weigh the same amount. He used a hand truck, cart, and the conveyor belt when moving boxes. (*Id.* at pp.8-9.)

Over the last 30 days, he experienced pain that was on average 5 to 6 on a scale of 1 to 10, with the worst pain being approximately 8. On a good day, his pain level was 4 to 5. On average, he experiences pain for about half the day, but it varies based upon his activities. Sitting, standing, walking, and driving for too long make his pain worse. (*Id.* at p. 7, lines 4-10.)

The pain in his low back is aching and burning. Sometimes it is constant and sometimes it comes and goes. Because of this pain, he cannot do things the way he wants to, like exercise, work, or basketball training. He has to take a break after about 30 minutes to an hour of driving. He is a coach for a basketball clinic, and his pain interferes with training others. He can explain drills, but he cannot perform the drills himself. He has other coaches show how to do drills and training. He used to go to the gym and work out, but now he goes there to walk around or watch his son work out. He does not lift anymore. He uses ice and heat when he is in intense pain, which can sometimes last two to three days in a row, or occur every other day. He sometimes lies down on a mat that has plastic spikes on it to help with circulation. If his back is bothering him, he will lie down throughout the day, sometimes the entire day. (*Id.* at p. 7, lines 11-25.)

His right shoulder was in pain during trial. Over the last 30 days, his worst shoulder pain felt like a 10 on a scale of 1 to 10. On a good day, it is 6 and a half out of 10. It feels like a stabbing pain, and it varies throughout the day. It is located in his shoulder and sometimes goes down his arm. The pain can be constant, or it can come and go. He cannot lift anything above his head because of the pain. The maximum he can lift with both hands is approximately 10 pounds. The maximum he can lift with his right arm only is approximately 3 to 4 pounds. He cannot lift anything above his shoulders without pain. He does not know how much he could lift above his shoulders. Activity makes his pain worse. Lying on his side while he is sleeping can also make it worse. (*Id.* at p. 8, lines 1-10.)

Over the last 30 days, his left shoulder has bothered him the same as his right shoulder. It is a sharp pain that he feels daily. The pain can vary; sometimes it is constant, and sometimes it comes and goes. He cannot lift anything above his head. Tylenol, heat, and ice make the pain better, and the pain gets worse with activity. (*Id.* at p. 8, lines 10-15.)

He recalled the QME asking him questions about his activities of daily living. He has problems with bathing, brushing his teeth, dressing, and cutting his toenails. However, he did explain to the QME all the ways that this injury has affected him. (*Id.* at p. 8, lines 15-18.)

Since the date of his injury, he has had difficulty with grocery shopping. When asked if there was a reason why he did not note that he had difficulty at the time of his deposition, he testified that he did not recall at the time. He did not recall being asked about being able to shower. At the time, he could still take a shower, but he was limited. (*Id.* at pp. 9-10.)

DISCUSSION

I

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

- (a) A petition for reconsideration is deemed to have been denied by the appeals board unless it is acted upon within 60 days from the date a trial judge transmits a case to the appeals board.
- (b)
 - (1) When a trial judge transmits a case to the appeals board, the trial judge shall provide notice to the parties of the case and the appeals board.
 - (2) For purposes of paragraph (1), service of the accompanying report, pursuant to subdivision (b) of Section 5900, shall constitute providing notice.

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

Here, according to Events, the case was transmitted to the Appeals Board on June 9, 2026 and 60 days from the date of transmission is Saturday, August 8, 2026. The next business day that is 60 days from the date of transmission is Monday, August 10, 2026 (See Cal. Code Regs., tit. 8, § 10600(b)).² This decision is issued by or on Monday, August 10, 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

¹ Any further section references are to the Labor Code unless otherwise noted.

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.

act on a petition. Section 5909(b)(2) provides that service of the WCJ's report and recommendation shall be notice of transmission.

Here, according to the proof of service of the WCJ's report and recommendation, the report was served on June 9, 2026 and the case was transmitted to the Appeals Board on June 9, 2026. 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 June 9, 2026.

II

Applicant contends that the WCJ erred by not using the QME's "*Almaraz/Guzman*" rating. Applicant further contends that the WCJ incorrectly found that his occupational group number in the PDRS is 360, and not 470.

An "*Almaraz/Guzman*" rating refers to a rating fashioned by a physician using material found within the AMA Guides in a discretionary manner that deviates from its exact instructions in order to achieve a more accurate assessment of impairment. (*Almaraz/Guzman, supra*, 187 Cal.App.4th 808.) The court held that (1) an employee's impairment may be determined by reference to any applicable portion of the AMA Guides, and (2) this determination may be used to rebut the rating of permanent disability established by the PDRS. The court reasoned that the language of section 4660 permits reliance on the entire AMA Guides in deriving an impairment rating in a particular case, and Chapters 1 and 2 of the AMA Guides provide instructions that permit a physician to use clinical judgment in deciding how to apply the remaining chapters. (*Id.* at p. 812.) The court noted that affording a physician some leeway in the manner of applying tables and other criteria found within the AMA Guides "does not create a new manner of calculating permanent disability or 'an exception that swallows the Schedule.' It requires application of the [AMA] Guides as written, including the instructions on its proper use." (*Id.* at p. 829.)

Thus, QME Dr. Smolins is clearly permitted to employ Table 6-9 of the AMA Guides instead of Table 15-3 as an alternative method of more accurately assessing the percentage of applicant's lumbar spine impairment. However, that opinion by itself does not constitute substantial medical evidence without adequate explanation.

All decisions of the Workers' Compensation 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 [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].) We have previously held en banc that "a medical opinion is not substantial evidence if it is based on facts no longer germane, on inadequate medical histories or examinations, on incorrect legal theories, or on surmise, speculation, conjecture, or guess." (*Escobedo v. Marshalls* (2007) 70 Cal.Comp.Cases 604, 620, citing *Hegglin v. Workmen's Comp. Appeals Bd.* (1971) 4 Cal.3d 162, 169 [36 Cal.Comp.Cases 93]; *Place v. Workmen's Comp. Appeals Bd.* (1970) 3 Cal.3d 372, 378-379 [35 Cal.Comp.Cases 525]; *Zemke v. Workmen's Comp. Appeals Bd.* (1968) 68 Cal.2d 794, 798 [33 Cal.Comp.Cases 358].)

Further, "a medical report is not substantial evidence unless it sets forth the reasoning behind the physician's opinion, not merely his or her conclusions." (*Escobedo, supra*, 70 Cal.Comp.Cases at p. 621, citing *Granado v. Workers' Comp. Appeals Bd.* (1970) 69 Cal. 2d 399, 407 [33 Cal.Comp.Cases 647] (a mere legal conclusion does not furnish a basis for a finding); *Zemke, supra*, 68 Cal.2d at pp. 799-801 (an opinion that fails to disclose its underlying basis and gives a bare legal conclusion does not constitute substantial evidence); *People v. Bassett* (1968) 69 Cal.2d 122, 141, 144 (the chief value of an expert's testimony rests upon the material from which their opinion is fashioned and the reasoning by which they progress from the material to the conclusion, and it does not lie in the mere expression of the conclusion; thus, the opinion of an expert is no better than the reasons upon which it is based).)

In the instant case, the QME did not provide sufficient explanation to justify choosing a 15 percent whole person impairment using Table 6-9 of the AMA Guides, which is ordinarily used to assess impairment for a hernia, instead of an 8 percent impairment under Table 15-3, which is prescribed for a diagnosis-related estimate of impairment of the lumbar spine. The only reasoning provided by Dr. Smolins in his maximal medical improvement report was that "the [AMA] Guides in their strictest sense do not accurately take into account the limitations in activities of daily living" and "one would not expect an 8% whole person impairment given the limitations in his ADLs as noted in today's reporting." (Joint Exhibit 5, p. 13.) The QME did not identify all of the affected activities of daily living from Table 1-2 of the AMA Guides; the pertinent section of his report referred only to the criteria listed in Table 6-9. No detailed reasoning was provided to justify

Dr. Smolins' conclusion that the deficits in activities of daily living were not fairly represented by an 8 percent whole person impairment, and that they more accurately corresponded with a 15 percent impairment.

The QME's supplemental report of November 23, 2025 examined activities of daily living for the purpose of establishing overlap and amplification to justify adding disabilities instead of combining them on the combined values chart in the PDRS, but the report did not provide any additional information to explain why using the hernia table to assess 15 percent whole person impairment is more accurate than using the lumbar spine diagnosis-related estimate of 8 percent. (Joint Exhibit 6, pp. 1-2.)

Unfortunately, the deposition of the QME added very little to answer these questions. Dr. Smolins noted that his worksheet listing activities of daily living included limitations on lifting and carrying, and Class 2 of Table 6-9 prescribes a range of impairment for "frequent discomfort, precluding heavy lifting, but not hindering some activities of daily living." (Joint Exhibit 1, p. 7, lines 14-17.) The QME also agreed with a leading question that those ADL deficits are not accounted for or captured in the lumbar diagnosis-related estimate (DRE) category II, but he did not explain why. (*Id.* p. 7, lines 2-25.)

While it is true that applicant carries the burden of proof to justify an *Almaraz/Guzman* rating, we "may not leave undeveloped matters which its acquired specialized knowledge should identify requiring further evidence." (*Raymond Plastering v. Workmen's Comp. Appeals Bd.* (1967) 252 Cal.App.2d 748, 753 [32 Cal.Comp.Cases 287, 291].) Here the QME provides a clear opinion that lumbar spine impairment should be 15 percent instead of 8 percent, but his explanation falls short of the standards for substantial medical evidence. Under these circumstances, the constitutional mandate to accomplish substantial justice requires the Appeals Board to use its power to develop the record to seek clarification rather than speculatively assume that the QME's conclusion is incorrect. (See Cal. State Const., Art. XIV, § 4; Lab. Code, § 5701.) We therefore will defer the issue of permanent disability so that the record can be developed on the disputed issue of the QME's proposed *Almaraz/Guzman* rating. Additional medical evidence should be obtained from Dr. Smolins, the QME who has already reported in this case. (See *McDuffie v. Los Angeles County Metropolitan Transit Authority* (2002) 67 Cal.Comp.Cases 138 (Appeals Board en banc).)

This development of the record will also afford the WCJ the opportunity to consider further the issue of applicant's occupational group number. The group number selected by the WCJ, 360, appears to be a compromise between the number requested by defendant, 214, and the number requested by applicant, 470. While group number 360 may indeed be the best reflection of applicant's actual job duties, the WCJ may want to take this opportunity to develop the record to address deficits in the evidence that was offered by both sides on this issue, as noted in her Report. Defendant's list of job duties is not comprehensive, offering a list of just "some" of the essential job functions for all personnel. Applicant's trial testimony is likewise problematic, based on an imperfect recollection. We note that applicant's testimony at trial does provide some guidance as to the weight associated with lifting while working in the warehouse, because he testified that he "lifted boxes weighing between 25 to 75 pounds every day. He estimates that he lifted consistently all day, especially while working in the warehouse." (MOH, p. 5, lines 23-25.)

Accordingly, we will grant applicant's Petition, rescind the May 14, 2026 F&A and substitute a new F&A that defers the issues of permanent disability and occupational group number and return the matter for further proceedings consistent with this opinion.

For the foregoing reasons,

IT IS ORDERED that applicant's Petition for Reconsideration of the Findings of Fact and Award issued by the WCJ on May 14, 2026 is **GRANTED**.

IT IS FURTHER ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the May 14, 2026 Findings of Fact and Award is **RESCINDED** and the following is **SUBSTITUTED** therefor:

FINDINGS OF FACT

1. Lawrence Thompson, while employed on April 14, 2023, as a Stockman/Retail Laborer at Sacramento, California by Hobby Lobby Stores, sustained injury arising out and in the course of employment to his low back and shoulders.

2. At the time of injury, the employer's workers' compensation carrier was ACE American Insurance Company, administered by Sedgwick CMS.

3. At the time of injury, applicant's earnings were \$703.46 per week, warranting indemnity rates of \$468.98 for temporary disability and \$290.00 for permanent disability.

4. Defendant has paid compensation as follows: Temporary disability indemnity at the weekly rate of \$468.98 for the periods of April 19, 2023 to April 20, 2023, and July 16, 2023 to July 9, 2025 and permanent disability indemnity at the weekly rate of \$290.00 commencing on July 10, 2025 to the present.

5. Applicant is entitled to further medical treatment.

6. The issues of permanent disability and attorney's fees are deferred.

7. The issue of applicant's occupational group number is deferred.

AWARD

AWARD IS MADE in favor of Lawrence Thompson against ACE American Insurance Company of future medical care reasonably required to cure or relieve the effects of the industrial injury.

IT IS FURTHER ORDERED that the matter is **RETURNED** to the WCJ for further proceedings consistent with this decision.

WORKERS' COMPENSATION APPEALS BOARD

/s/ CRAIG L. SNELLINGS, COMMISSIONER

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER



/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

AUGUST 10, 2026

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

**LAWRENCE THOMPSON
LAW OFFICES OF NADEEM H. MAKADA
LLARENA, MURDOCK, LOPEZ & AZIZAD, APC**

CWF/cs

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