WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA

MARIA GONZALEZ, *Applicant*

vs.

RIVERSIDE TRANSIT AGENCY, permissibly self-insured, administered by INTERCARE, *Defendants*

Adjudication Number: ADJ20114460
San Bernardino District Office

OPINION AND ORDER DENYING PETITION FOR RECONSIDERATION

Applicant seeks reconsideration of the Amended Findings of Fact (FOF) dated July 24, 2026, wherein the workers' compensation administrative law judge (WCJ) found that applicant's right knee injury arising out of her employment with Riverside Transit Agency on September 18, 2024, is limited to the diagnosis of right anterolateral knee contusion; applicant's right anterolateral knee contusion reached permanent and stationary (P&S) status on July 14, 2025; applicant did not sustain any permanent disability arising out of her industrial right knee anterolateral contusion injury; applicant is not entitled to future medical care reasonably required to cure or relieve from the effects of the right anterolateral knee contusion; and in light of the above findings, all other issues are moot.

Applicant contends that the reports of orthopedic Panel Qualified Medical Evaluator (PQME), Christopher Hajnik, M.D., are not substantial medical evidence upon which the WCJ may rely on the issues of nature and extent of injury, permanent disability, and future medical treatment. (Petition for Reconsideration (Petition), p. 3.) Specifically, applicant takes issue with her "right knee injury being limited to the diagnosis of right anterolateral knee contusion[.]" She requests that the FOF be rescinded and the matter returned to the trial level for further development of the record. (*Id*. at p. 6.)

We have received an Answer from defendant. The WCJ prepared a Report and Recommendation on Petition for Reconsideration (Report), recommending that the Petition be denied.

We have considered the allegations in the Petition and Answer as well as the contents of the Report, and we have reviewed the record in this matter. For the reasons discussed below, we will deny the Petition.

FACTS

On November 15, 2024, applicant filed an Application for Adjudication of Claim alleging that while employed by defendant as a bus operator on September 18, 2024, she sustained an injury arising out of and occurring in the course of employment (AOE/COE) to her right knee.

Applicant sought treatment with Jonathan Nissanoff, M.D. and the parties retained Dr. Hajnik as the orthopedic PQME. Dr. Hajnik evaluated applicant on July 14, 2025, and issued a corresponding report dated July 22, 2025, as well as supplemental report dated September 10, 2025.

In his report dated July 22, 2025, Dr. Hajnik noted review of 3,446 pages of records. (Exhibit A, p. 3.) He noted also that "[b]ased on a reasonable medical probability[,]" "the condition of the right knee anterolateral contusion is related to injury claimed as of September 18, 2024." (*Id*. at p. 57.) He indicated that this was "supported by the medical records, the examination of the applicant[,] as well as diagnostic testing which indicates some anterior tibial, subcutaneous edema likely representative of the contusion injury." (*Ibid*.) Further, he concluded that applicant's "right degenerative medial meniscus tear and right patellofemoral and medial compartment arthritis" are "unrelated to the injury dated September 18, 2024." (*Ibid*.) "This [was also] based upon reasonable medical probability" and "imaging studies indicative of [a] pre-existing condition in the right knee which includes degenerative tear of medial meniscus." (*Ibid*.) In his analysis, Dr. Hajnik noted that a number of factors indicate there is no resulting impairment from the September 18, 2024 injury, including the fact that there was no evidence of any right knee instability or tenderness, applicant's full range of motion and normal motor and sensory exams, symmetrical findings with respect to the contralateral knee, and per applicant's own statements, a near 100% resolution of her symptoms. (*Id*. at p. 58.) Accordingly, further medical treatment was not indicated. (*Ibid*.)

In his supplemental report dated September 10, 2025, Dr. Hajnik noted review of an additional eighty (80) pages of records and offered no change in his opinions. (Exhibit B, p. 4.)

On August 18, 2025, defendant filed a Declaration of Readiness to Proceed to a Mandatory Settlement Conference on the issues of permanent disability and future medical treatment. The matter proceeded to hearing and was ultimately set for trial, to be held on May 4, 2026.

At trial, the parties stipulated, in relevant part, that while employed by defendant on September 18, 2024 as a bus operator (occupational group 250), applicant sustained injury AOE/COE to the right knee and applicant's primary treating physician is Dr. Nissanoff. Issues set for determination included permanent and stationary date; permanent disability; apportionment; need for further medical treatment; and attorney's fees.

Applicant offered as exhibits, the reports of Dr. Nissanoff. Defendant offered as exhibits, the reports of Dr. Hajnik, designated subpoenaed Kaiser records, and the transcript of applicant's January 30, 2025 deposition. The exhibits were admitted by the WCJ, applicant testified on her own behalf at trial, and the matter thereafter stood submitted.

On July 24, 2026, the WCJ issued a FOF wherein it was found that applicant's right knee injury arising out of her employment with defendant on September 18, 2024, is limited to the diagnosis of right anterolateral knee contusion which reached permanent and stationary (P&S) status on July 14, 2025; applicant did not sustain any permanent disability arising out of her industrial right knee injury, and applicant is not entitled to future medical care reasonably required to cure or relieve from the effects of the right anterolateral knee contusion.

It is from this FOF that applicant seeks reconsideration.

DISCUSSION

I.

Petitions for reconsideration filed on or after July 14, 2026 are subject to Labor Code[1] section 5909, which states 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.

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

(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 sixty (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 August 27, 2026 and 60 days from the date of transmission is October 26, 2026. This decision is issued by or on October 26, 2026, so that we have timely acted on the Petition as required by section 5909(a).

Section 5909(b)(1) requires that the parties and the Appeals Board be provided with notice of transmission of the case. Transmission of the case to the Appeals Board in EAMS provides notice to the Appeals Board. Thus, the requirement in subdivision (1) ensures that the parties are notified of the accurate date for the commencement of the 60-day period for the Appeals Board to act on a petition. Labor Code section 5909(b)(2) provides that service of the Report shall be notice of transmission.

Here, according to the proof of service for the Report, the Report was served on August 27, 2026, and the case was transmitted to the Appeals Board on August 27, 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 August 27, 2026.

II.

Turning now to the merits of the Petition, applicant contends that the reports of Dr. Hajnik are not substantial medical evidence on the issues of nature and extent of injury, permanent

disability, and future medical. Specifically, applicant takes issue with the "right knee injury being limited to the diagnosis of right anterolateral knee contusion[.]" (Petition, p. 3.)

It is well established that the burden of proof rests upon the party holding the affirmative of the issue. (Lab. Code, § 5705.) Pursuant to section 3202.5, the evidentiary burden of proof is to be met by a preponderance of the evidence.

Further, substantial medical evidence is used to establish industrial causation as well as any resulting impairment and need for further medical treatment. "The term 'substantial evidence' means evidence which, if true, has probative force on the issues. It is more than a mere scintilla, and means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion…It must be reasonable in nature, credible, and of solid value." (*Braewood Convalescent Hospital v. Workers' Comp. Appeals Bd.* (*Bolton*) (1983) 34 Cal.3d 159, 164 [48 Cal.Comp.Cases 566], emphasis removed and citations omitted.) Pursuant to *E.L. Yeager v. Workers' Comp. Appeals Bd.* (*Gatten*) (2006) 145 Cal.App.4th922, 928 [71 Cal.Comp.Cases 1687], "[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. (citations.) 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. (citation.)" "A medical report which lacks a relevant factual basis cannot rise to a higher level than its own inadequate premises. Such reports do not constitute substantial evidence to support a denial of benefits. (citation.)" (*Kyle v. Workers' Comp. Appeals Bd* (*City and County of San Francisco*) (1987) 195 Cal.App.3d 614, 621.)

Here, in his report dated July 22, 2025, Dr. Hajnik indicated that applicant's "right knee anterolateral contusion is related to injury claimed as of September 18, 2024." (Exhibit A, p. 57.) He noted that his opinion was "[b]ased on a reasonable medical probability" and "supported by the [3,446 pages of] medical records, the examination of the applicant[,] as well as diagnostic testing which indicate[d] some anterior tibial, subcutaneous edema likely representative of the contusion injury." (*Ibid*.) He further opined that applicant's "right degenerative medial meniscus tear and right patellofemoral and medial compartment arthritis" were "unrelated to the injury dated September 18, 2024." (*Ibid*.) "This [conclusion was similarly] based upon reasonable medical probability as well as imaging studies indicative of [a] pre-existing condition in the right knee[,]" including a "degenerative tear of [the] medial meniscus." (*Ibid*.) Dr. Hajnik expressed a number

of factors which supported his belief that there existed no resulting impairment from the September 18, 2024 injury, including the fact that there was no evidence of right knee instability or tenderness, applicant's full range of motion and normal motor and sensory exams, symmetrical findings with respect to the contralateral knee, and a near 100% resolution of symptoms per applicant, (*Id*. at p. 58.) In light of the foregoing, he concluded that applicant was not in need of further medical treatment. (*Ibid*.)

Based upon our review of Dr. Hajnik's reports, he completed a full assessment of applicant, reviewed extensive medical records, took a detailed history, and provided evidence and reasoning in support of his conclusions. As such, we conclude that the reports of Dr. Hajnik constitute substantial medical evidence on the issues and nature of extent of injury, permanent disability, and need for future medical treatment to cure or relieve from the effects of the industrial injury. Further, based upon the totality of the records including the reports of Dr. Hajnik, we agree with the WCJ that applicant's right knee injury should be limited to the diagnosis of right anterolateral knee contusion.

Applicant asserts that selected portions of subpoenaed records from Kaiser and the reports of Dr. Nissanoff prove that the reports of Dr. Hajnik are not substantial evidence. We note that the selected records from Kaiser do not discuss or establish injury AOE/COE let alone permanent disability or need for continued medical treatment on an industrial basis. Further, in our review of Dr. Nissanoff's reports, we agree with the WCJ that:

> Dr. Nissanoff's reporting is discredited by applicant's testimony, contradictory statements in his reporting, and his lack of detail and analysis in his conclusion. Dr. Nissanoff does not document the mechanism of injury for the September 18, 2024, industrial injury[.]
>
> ***
>
> Dr. Nissanoff did not explain how or why the applicant's employment with Riverside Transit Agency caused or contributed to the medical findings present in applicant's knee. His reporting relies entirely on her reported symptoms.
>
> ***
>
> [A]pplicant's testimony shows that Dr. Nissanoff failed to accurately document her symptoms. Dr. Nissanoff's initial report states: "The patient reported experiencing pain in her right knee. This pain is aggravated by standing and sitting for a long period." (Applicant Exhibit 1 page 6.) However, during applicant's deposition on

January 30, 2025, she testified that the symptoms documented in Dr. Nissanoff's January 15, 2025, report were not accurate.

> "Q He said at the time of that visit on January 15th that you were experiencing pain in your right knee. Was that an accurate statement on January 15th?
>
> A No
>
> Q He also said that your pain was aggravated by standing and sitting for a long period. Is that an accurate statement?
>
> A No." (Defendant Exhibit D.)

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In his March 19, 2026, report Dr. Nissanoff attempts to discredit Dr. Hajnik's opinion, but his statements are unsupported as he still fails to explain how applicant's employment and the mechanism of injury is consistent with her current condition. (Applicant Exhibit 14.)

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Further, his reporting fails to show that he understands how the injury on September 18, 2024, occurred, nor does he discuss whether it was medically probable that the claimed mechanism of injury could cause or contribute to applicant's present medical condition.

In light of the significant factual errors and lack of explanation, Dr. Nissanoff's opinion about the nature and extent of the September 18, 2024, industrial right knee injury does not constitute substantial medical evidence.

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Where there is conflicting evidence, it is well-settled that the WCAB may choose the most appropriate and convincing evidence among conflicting medical evidence (*Place v. WCAB*, (1970) 3 Cal. 3d 372, 378.) Based upon the above discussion, the undersigned does not find Dr. Nissanoff's reporting persuasive or well-reasoned.

(Report, pp. 7-8.)

We note further that during trial, applicant confirmed Dr. Nissanoff's inaccurate reporting, testifying as follows:

> Applicant struck her right knee on the fare box and developed a bruise that she could barely see. She told Kaiser that she struck her knee on the fare box. She also told the PQME that she hit her knee on the fare box.
>
> Applicant returned to work in January of 2025. Applicant saw Dr. Nissanoff on January 15, 2025. Applicant recalls having her deposition taken on January 30, 2025. She recalls saying that she had no pain or swelling in her right knee at the time of the deposition. She recalls testifying that Dr. Nissanoff's report indicating she had pain in her knee was not correct. Defendant referenced Applicant's deposition testimony from January 30, 2025, page 31 lines 14 through 22. (Defendant Exhibit D.)
>
> Applicant did not remember testifying during her deposition that the statements in Dr. Nissanoff's January 15, 2025 report indicating that she was experiencing pain in her right knee, and that the pain was aggravated by standing and sitting for a long period were not accurate.
>
> Applicant continued to work for Riverside Transit Agency while treating with Dr. Nissanoff. She recalls telling Dr. Nissanoff on July 1, 2025, that she had lost weight and that the pain in her right knee was gone.
>
> Applicant recalls telling the Panel PQME that she had intermittent pain and that no activities aggravated her pain. Applicant has worked full duties for Riverside Transit Agency since January 2025.

(Minutes of Hearing and Summary of Evidence (MOH & SOE), May 6, 2026, pp. 6:20-7:10.)

Thus, based upon the foregoing, and the totality of the record, including applicant's deposition and trial testimony, we find no basis upon which to disturb the Amended Findings of Fact and the WCJ's reliance upon the medical reporting of Dr. Hajnik over Dr. Nissanoff.

Accordingly, applicant's Petition is denied.

For the foregoing reasons,

IT IS ORDERED that applicant's Petition for Reconsideration of the Amended Findings of Fact dated July 24, 2026, is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ PAUL F. KELLY, COMMISSIONER

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

/s/ LISA A. SUSSMAN, DEPUTY COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

October 26, 2026

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

MARIA GONZALEZ
LAW OFFICES OF DRASIN, YEE & SANTIAGO
LAW OFFICES OF JODIE P. FELKINS

RL/cm

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