WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

ROMERO LASTER, ***Applicant,*** **vs.** **CITY AND COUNTY OF SAN FRANCISCO, Permissibly Self-Insured,** ***Defendant.***	**Case No. ADJ3544563** **ADJ9052552 (SFO0443679)** **OPINION AND DECISION AFTER RECONSIDERATION**

We earlier granted defendant's petition for reconsideration of the January 2, 2014 Findings And Award of the workers' compensation administrative law judge (WCJ) who found in ADJ3544563 that applicant sustained specific industrial injury to his knees, back and psyche while employed as a bus driver / cable car gripman / conductor (transit worker) on April 23, 1999, causing 100% total permanent disability after apportionment, and found in ADJ9052552 that applicant while in that same employ sustained cumulative industrial injury to those same body parts during the period ending April 23, 1999, causing 20% permanent disability after apportionment, with both injuries causing a need for future medical treatment.

Defendant contends that the award of total permanent disability is not supported by substantial evidence, that the award is unfairly based upon the analysis described in *LeBoeuf v. Workers' Comp. Appeals Bd.* (1983) 34 Cal.3d 234 [48 Cal.Comp.Cases 587] (*LeBoeuf*), and that the WCJ did not properly apply apportionment pursuant to Labor Code sections 4663 and 4664 and as described in *Benson v. Permanente Medical Group* (2007) 170 Cal.App.4th 1535 [74 Cal.Comp.Cases 113] (*Benson*).[1]

[1] Further statutory references are to the Labor Code.

Attached to defendant's petition are copies of two reports by applicant's treating physician Michael Hebrard, M.D., which defendant asks that we receive into evidence. However, the request to admit the two documents into the record is not properly supported as required by Appeals Board Rule 10856, and they are not received into evidence.[2]

An answer was received from applicant. The WCJ provided a Report and Recommendation on Petition for Reconsideration (Report) recommending that reconsideration be denied.

We have carefully reviewed the record and considered the allegations of defendant's petition, applicant's answer and the WCJ's Report. For the reasons stated by the WCJ in her Report, which are incorporated by reference except as discussed below, and for the reasons below, we amend the WCJ's January 2, 2014 decision to rescind the apportionment of 10% of applicant's psychiatric permanent disability to the cumulative injury in ADJ9052552, but otherwise affirm the WCJ's decision.

BACKGROUND

As discussed in the Report, applicant started working for defendant as a transit operator in 1986. His last day of work was in 2003, and he was retired because of disability in 2005. Over the course of his employment applicant sustained an industrial injury to his left wrist and arm on June 21, 1990, which resulted in the issuance of a stipulated award of 17.1% permanent disability and future medical treatment on March 9, 1995 in ADJ657319 [SFO 377081] (Exhibit R). He also sustained industrial injury to his back, neck, right arm, elbow and hand when he was assaulted while driving a bus on July 16, 1994, which resulted in the issuance of a stipulated award of "20% (22% total)" permanent disability and future medical treatment on July 1, 1996 in ADJ2450154 [SFO 377884] (Exhibit P).

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[2] Appeals Board Rule 10856 provides as follows: "Where reconsideration is sought on the ground of newly discovered evidence that could not with reasonable diligence have been produced before submission of the case or on the ground that the decision had been procured by fraud, the petition *must contain an offer of proof, specific and detailed,* providing: (a) the names of witnesses to be produced; (b) a summary of the testimony to be elicited from the witnesses; (c) a description of any documentary evidence to be offered; (d) the effect that the evidence will have on the record and on the prior decision; and (e) as to newly discovered evidence, *a full and accurate statement of the reasons why the testimony or exhibits could not reasonably have been discovered or produced before submission of the case.* A petition for reconsideration sought upon these grounds may be denied if it fails to meet the requirements of this rule, or if it is based upon cumulative evidence." (Cal. Code Regs., tit. 8, § 10856, emphasis added.)

The two claims before us involve an admitted specific injury to both knees, the back and psyche on April 23, 1999 (ADJ3544563), and an admitted cumulative injury to those same body parts through that date (ADJ9052552). Applicant has had several surgeries on his right knee, including a total knee replacement. However, the surgeries have not been successful and he continues to experience pain in both knees and in his low back.

The parties selected Michael Charles, M.D., to evaluate and report on applicant's orthopedic condition as their Agreed Medical Evaluator (AME). James Robbins, M.D., was selected to serve as their psychiatric AME. The reporting from those physicians did not lead to an agreed disposition of the two claims, and the issues of permanent disability and apportionment were tried on October 3, 2013.

The WCJ explains the reason for her decision in her Report by quoting extensively from her Opinion on Decision (Opinion). She then responds to defendant's contentions as follows:

> "In its petition, the City correctly points out the parties stipulated that LeBouef [*sic*] was not an issue in this matter. However, the City incorrectly points out that, in part, my decision was based on LeBouef [*sic*] which it was not.
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> "Dr. Charles as the AME found that Mr. Laster was ***medically*** unable to return to any type of work. This is not a vocational finding. This is a medical finding. Physicians are not qualified as experts to make vocational findings. Dr. Charles found that because of the very poor condition of Mr. Laster's knees, he was medically permanently totally disabled. This opinion was confirmed during Dr. Charles' deposition as noted above in the Opinion on Decision...
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> "Defendants contend that there is no medical evidence to support the finding that the motorized scooter was a medical necessity. In his 5/10/2013 report, AME Dr. Charles noted that he agreed with Dr. Hebrard's prescription for a walker/scooter. (Exhibit B) In his report of 2/1/2012, Dr. Charles noted that the injured worker was dependent on crutches. (Exhibit F)
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> "Defendants do not appear to be challenging the need for a walker. Under the 1997 PDRS, a walker can also carry a 100 standard. The AME reports certainly support a finding of 100% permanently totally disabled based on the medically required assistive devices including a walker and motorized scooter so Mr. Laster can get around...
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> "Defendants contend that apportionment was not fully considered. As noted above, all of the injuries were reviewed. All of the evidence was reviewed. The trial briefs were reviewed. I believe that I addressed apportionment thoroughly in conjunction with my findings. I did apply the apportionment as found for the two orthopedic injuries to the knees which were the subject of this trial.

> "I did consider further development of the record regarding apportionment of the psychiatric disability as Dr. Robbins did not discuss apportionment. Instead, I decided to apply the same apportionment as I found applied to the orthopedic injuries to the knees as the psychiatric apportionment would need to be more than 50% to other factors in order to reduce the MDT under 100% which, based on my review of the entire record, was most likely not going to happen as despite the problems he had earlier, he was still able to work and make a living." (Emphasis in original. The WCJ's citation to "LeBouef" appears to be intended to reference *LeBoeuf*.)

DISCUSSION

The WCJ wrote in her Opinion that the finding of total permanent disability in ADJ3544563 was based in part upon the fact that applicant was in need of a motorized scooter. Defendant takes issue with that reasoning in its petition, arguing that there is no evidence that a motorized scooter was prescribed by applicant's primary treating physician Dr. Hebrard. In making that argument, defendant does not acknowledge in its petition that it has, in fact, already provided applicant with a motorized scooter pursuant to the September 17, 2013 recommendation of applicant's psychiatric treater Dr. David Cohn, as admitted in its trial brief. (3:21-24.) Moreover, Dr. Charles supported the provision of a walker and a motorized scooter in his report of May 10, 2013, writing that applicant is "totally disabled with respect to his knee injuries, along with concomitant problems arising from his knee injuries." It is apparent from Dr. Charles' entire reporting that he would endorse the provision of a walker and a motorized scooter regardless of whether they were prescribed by applicant's treating physician or recommended by his psychiatric treater.[3]

In her Report, the WCJ responds to defendant's contention that there is no prescription by the primary treating physician for a motorized scooter by noting that defendant does not dispute applicant's use of crutches and need for a walker. We agree with the WCJ's view that applicant's need for crutches, a walker and/or a motorized scooter supports her finding that applicant is totally permanently disabled, but we do not find that the issue of permanent disability turns solely upon that need because the finding of total permanent disability in ADJ3544563 is also supported by substantial medical evidence in light of the entire record.

[3] We express no opinion on whether the provision of a motorized scooter is reasonable medical treatment.

Dr. Charles examined applicant several times. In his reports of September 9, 2006, May 9, 2006, October 13, 2008, February 23, 2009, and September 10, 2010, the physician chronicles applicant's ongoing and worsening knee problems. He writes in those reports about the temporary total disability caused by the problems with applicant's knees, the seven unsuccessful knee surgeries and their consequences, including the result of causing one leg to be shorter than the other, and the need for further medical treatment. In his January 14, 2011 report, Dr. Charles describes applicant's increasing knee pain, his use of a cane to ambulate, his need for left knee surgery and his ongoing temporary total disability.

In his report of April 27, 2011, Dr. Charles writes that he is accepting the view of defendant's claims examiner that applicant's need for additional knee surgeries be addressed as future medical treatment, and he opined that in the absence of those additional surgeries on both knees applicant's condition had reached maximum medical improvement at that time. In the April 27, 2011 report Dr. Charles notes that applicant was experiencing "significant gait instability" at that time, along with "chronic low back pain" due to his antalgic gait, and that he had "need for external support on ambulation." He then addressed the level of applicant's orthopedic disability and apportionment on pages nine through eleven of the April 27, 2011 report, as follows:

> "The patient's right knee would be 70% disability with limitation to sedentary work. He stated he could do work predominantly in a sitting position at a bench, desk or table with minimal demands of physical effort with some degree of walking and standing being permitted.
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> "For his left knee, the patient would be semi-sedentary, contemplating that the individual could do work approximately one-half the time in a sitting position, approximately one-half the time in a standing position or walking position with minimal demands of physical effort. However, since we are bi-pedal, that is needing both lower extremities, for his knees, considering the instability and need for knee replacement on the left knee and a serious revision surgery on the right knee, the patient is unable to return to the open labor market.
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> "For the patient's low back, he would have 50% disability, contemplating the individual can do work in a standing or walking position with minimal demands for physical effort.
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> "In regard to the patient's upper extremities, he is restricted from forceful grasping, pushing and pulling, fine manipulation with the right hand, performing no repetitive work at shoulder level or above, no heavy work...

> "All medical providers in this case have constantly noted the complex situation of this patient. Working from the *Benson* perspective, 75% of the patient's problems would be to his knees, 20% to his low back and 5% to his upper extremities
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> "However, the fact that the patient's problems, primarily at this point in time, stem from his dysfunctional gait and instability of his knees, thus affecting his low back, and the use of external aids in regard to his upper extremity pains and complaints, the undersigned would opine that the overall picture of this patient's inability to return to the open labor market is inextricably intertwined and we must consider the effects of his chronic pain syndrome as well. As this case notes multiple periods of denial for treatment, especially noting the fact that when the patient was sent to the undersigned for an agreed medical evaluation, the undersigned's opinions were challenged and the patient was again sent to another orthopedist, Dr. Sehzadi, who within reasonable medical certainty, agreed with the undersigned, indicating the complexity and seriousness of the patient's problems.
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> "Thus, noting that the undersigned has agreed with the claims examiner, Mr. Burton, that at this point in time the patient is not ready to pursue additional surgeries, we are declaring him at maximum medical improvement with future medical provisions. As I have previously noted, the patient would not achieve maximum medical improvement until his problems, especially with his knees and low back, are resolved. He does agree, theoretically, that we can now entrust the insured to provide the needed future medical provisions as his case is at maximum medical improvement as of this dictation, further supporting an intrinsically intertwined situation.
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> "In regard to Labor Code 4664, I am not aware of this patient receiving any cash awards. If he has, then again the interplay with these previous awards would be left to the Trier of Fact...
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> "As stated, the patient is unable to return to the open labor market." (Italics added.)

In his February 1, 2012 report, Dr. Charles again explained his view that applicant was not able to return to the open labor market "due to the patient's extensive period of disability, crutch dependency, substantial revision surgeries to his knees, ongoing probable lumbar radiculopathy affecting also stability of his station and gait." Dr. Charles further wrote in that report that, "The patient's current disability status is objectively substantiated to result in a chronic pain condition, dependence upon medication, severe major depression, all synergistically adding to this patient being unable to return to the open labor market."

With regard to apportionment of orthopedic permanent disability between the two injuries as described in *Benson*, Dr. Charles stated during his December 4, 2012 deposition that he would further

consider that possibility, and offered the following statement on how he viewed the issue as shown in the deposition transcript:

> "Let me jump in here and not be totally passive. My understanding from a *Benson* perspective is if in 1994 he, say, fractured his knee that involved a joint, the fracture healed, he returned back to work but left the knee a bit askew, that gave him a greater predilection to wearing the knee in an asymmetric way. So therefore, there was the progressive deterioration that may actually be asymptomatic but because the earlier injury did set up a situation where the anatomy was changed, then the later injury occurred where the same body part was injured but it brought to light the asymmetry of the knee and the way it was aligned. It was out of alignment which wasn't a bother to the person until the second injury, then there would be apportionment from a *Benson* perspective to that earlier injury to the current injury and that's how I understand the *Benson*, separate dates, earlier injury contributing to the inure recent incident.
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> "Now If you have an injury and the person is able to continue working but due to the nature of his work and the standing and the moving about, that he finds himself having a little bit mere pain than usual and having to take anti-inflammatories or can't participate in weekend basketball games and stuff like that or any other type of sporting activities to save himself from work and it progressively gets to a point that he goes to the doctor and says, 'I can't do this anymore,' and the doctor says, 'Oh, well you know, I found a lot of arthritis in your knee and I didn't think that the arthroscopic would really help a lot and now you need a partial knee replacement,' did this cumulative trauma on top of the industrial incident make a legitimate cumulative trauma argument and therefore contribute on that basis to the overall incident? So not a separate date — well, I guess it would be a separate date because it would be CT up to the date of leaving work versus a specific traumatic event explaining everything.
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> "So that's my understanding of it and as I understand from Mr. Laster, he mentioned that his job was hard and he couldn't do it anymore and so therefore I said it was due to the industrial injury. Mr. Chen seemingly, cleverly said well can that be broken up or is it all just the specific date or is it the nature of his work and I'm saying that I will consider that and I'll look at some other Information on that, but I didn't say that I change my opinion from where we were. And if I did change my opinion, I would say it would be no more 5 percent but that doesn't mean that I have broken that up." (Joint Exhibit D, 36:4-38:6, italics added.)

Dr. Charles subsequently addressed the issue of *Benson* apportionment between the injuries on pages two and three of his January 30, 2013 report, as follows:

> "[A] low back injury condition was present prior to the 4/23/99 injury date, as the patient was fully working. I do not have the actual rating but it would appear that the patient had an old schedule Category A of no heavy lifting rating. As stated by the undersigned, the patient has from the old guides, Category G where he has a disability resulting in limitation to semi-

sedentary work, where he could work 50% in a standing position and 50% in a sitting position with minimal demand of physical activity. Thus, apples to apples, we would have 10% previous rating to 60% industrial rating. From the DRE perspective, the lumbar spine would have a Category A, which would be 0% whole person impairment, to a DRE Category III, 13% whole person impairment.

"In the opinion of the undersigned, the medical records clearly show that it was as noted in Dr. Grotz' arthroscopic surgery to his knee in 1999 that there was extensive damage to the knee and significant extensive surgery was performed on that knee which ultimately led to progressive deterioration of his knees thereafter.

"Based on Dr. Stark's final evaluation, the lumbar spine would be a cumulative trauma injury and knee instability and having to be dependent on crutch walking that led to his current state and condition of his lumbar spine.

"His work activities and problems in his knees were, within reasonable medical probability, aggravated by his work as a brakeman, cable car operator. In the opinion of the undersigned, there would be no greater than 10% apportionment to work related activities leading up to his injury claim of 4/23/99. Thus, 10% apportionment to cumulative trauma would be based on Dr. Marjorie Oda's AME report, as well as Dr. Grotz who stated that the patient was noted to have underlying pathology in the knee, secondary to pushing cable cars and working on the cable cars' very difficult braking system. However, per review of Dr. Grotz initial arthroscopic procedure, there is a great deal of direct trauma to the articular cartilage of his knees that resulted in the extensive chondroplasties and surgeries performed by Dr. Grotz wherein [*sic*] it was the 4/23/99 injury that brought the patient to his office. Thus, it would be a much greater percentage of this patient's current industrial injury status." (Joint Exhibit C.)

As noted above, Dr. Charles confirmed his view in his May 10, 2013 report that, "this patient would be totally disabled with respect to his knee injuries, along with concomitant problems arising from his knee injuries. The patient is totally disabled." In his July 12, 2013 report, Dr. Charles reiterated his view regarding apportionment that, "The dysfunctional knees and his low back status are intertwined. The undersigned found no separate apportionment to be indicated."

With regard to applicant's psychiatric injury, the only medical reporting placed into evidence is the December 3, 2012 report of the parties' AME Dr. Robbins, who provided his opinion on causation and apportionment on pages 42 and 43 of that report as follows:

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"CAUSATION OF DISABILITY

"Mr. Laster's temporary partial and temporary total psychiatric disability is entirely due to the injury to the bilateral knees of 04/23/99 and the subsequent chronic pain, unsuccessful knee surgeries, and inability to maintain his former lifestyle.

"APPORTIONMENT OF DISABILITY

"I have considered apportionment of permanent partial psychiatric disability as required by Labor code §4663. All of my apportionment opinions are given to a reasonable degree of medical probability, and I have not engaged in guessing, speculation, or surmise.

"I have considered the fact that this man has an 8th grade education, a history of dyslexia, very limited job experience, a prior history of alcohol abuse, and a history of PTSD.

"However, *the fact that he has had multiple orthopaedic injuries culminating with the last injury of 04/23/99, has had multiple failed surgeries on his knees and has developed chronic pain with medication complications, has overshadowed all of the prior industrial and nonindustrial issues. His permanent psychiatric disability is 100% caused by the industrial injury of 04/99 and the unfortunate sequellae* [*sic*].

"This man is considered totally and permanently psychiatrically disabled as defined by Labor Code § 4662, 'Any injury of the following permanent disabilities shall be conclusively presumed to be total in character: an injury to the brain resulting in incurable mental incapacity or insanity.' This is an injury involving his intellectual, emotional, cognitive, and pain-processing systems, and he is thus 100% psychiatrically disabled, with no apportionment." (Joint Exhibit L, emphasis added.)

Defendant argues in its petition that Dr. Robbins did not address *Benson* type apportionment of permanent disability between the specific and cumulative injuries in his December 3, 2012 report, and argues that this renders his reporting insubstantial. However, it is important to note that at the time Dr. Robbins issued his December 3, 2012 report there was no pending claim of cumulative injury.[4] The later filing of the cumulative injury claim does not invalidate Dr. Robbins' opinion that there is no basis for apportionment of applicant's current psychiatric total permanent disability between industrial and non-industrial causes. Nor did defendant present any evidence supporting *Benson* type apportionment of the psychiatric permanent disability to the cumulative injury.

[4] The Application for Adjudication of Claim in ADJ9052552 was filed on August 15, 2013.

It is the defendant's burden to prove that there is a basis for apportionment. (*Escobedo v. Marshalls* (2005) 70 Cal.Comp.Cases 604 (Appeals Board en banc) (*Escobedo*); *E.L. Yeager Construction v. Workers' Comp. Appeals Bd.* (*Gatten*) (2006) 145 Cal.App.4th 922 [71 Cal.Comp.Cases 1687] (*Gatten*).) Here, Dr. Robbins expressly opined in his December 3, 2012 report that applicant's "permanent psychiatric disability is 100%" caused by the specific injury ADJ3544563 and its sequelae, with no apportionment to nonindustrial causative sources. It appears defendant chose not to further develop the record on the issue of apportionment of psychiatric permanent disability after the claim of cumulative injury was filed in ADJ9052552, and chose not to offer any evidence in support of its contention that there is a basis for apportioning some part of that to the cumulative injury. "[W]here a deliberate trial strategy results in an outcome disappointing to the advocate, the lawyer may not use that tactical decision as the basis to claim prejudicial error." (*Mesecher v. County of San Diego* (1992) 9 Cal. App. 4th 1677, 1686; cf. *Ocean Services Corp. v. Ventura Port Dist.* (1993) 15 Cal.App.4th 1762, 1778 [a party's objection to the sufficiency of the evidence will not be upheld when the lack of evidence resulted from that party's own actions].)

Dr. Robbins December 3, 2012 report is unrebutted evidence that the specific injury sustained by applicant in April 1999 caused psychiatric total permanent disability with no basis for apportionment to nonindustrial causative sources. However, notwithstanding that evidence, the WCJ applied a *Benson* type apportionment to the psychiatric permanent disability, reasoning in her Opinion and Report as follows:

> "Dr. Robbins opined that 100% of the psychiatric permanent disability was related solely to the 4/23/1999 specific injury, however, again, he was not advised of Dr. Charles' finding in his 4/27/2011 report that Mr. Laster also sustained a cumulative trauma injury ending 4/23/1999. Therefore, I believe it would be reasonable to apply the same levels of apportionment as found by Dr. Charles, 90% to the specific injury and 10% to the cumulative trauma injury."

We disagree with the WCJ's determination that the reporting of Dr. Charles supports apportionment of applicant's psychiatric disability between the two injuries. To the contrary, Dr. Charles is clear in his reporting that he only addresses the causes of applicant's orthopedic permanent disability. It was not appropriate for the WCJ to apply Dr. Charles' reasoning and opinions outside his area of

expertise to the psychiatric permanent disability. Any apportionment of applicant's psychiatric disability between the injuries must be supported by substantial medical opinion that specifically addresses the psychiatric disability at issue. Defendant presented no such evidence in support of its contention that some of applicant's psychiatric permanent disability should be apportioned to the cumulative injury in ADJ9052552, and thus failed to carry its burden of proving a basis for such apportionment. (*Escobedo, supra*; *Gatten, supra.*)

As discussed in the Report, the WCJ combined applicant's orthopedic and psychiatric disabilities using the Multiple Disability Tables and determined applicant's permanent disability in the two cases as follows:

"Specific Injury of 4/23/99: 90 + 90 = 100%
Cumulative Trauma ending 4/23/99: 10 + 10 = 20%"

Instead of apportioning some of applicant's psychiatric injury to the cumulative injury, we calculate the permanent disability in the two cases as follows:

Specific Injury of 4/23/99: 90 + 100 = 100%
Cumulative Trauma ending 4/23/99: 10 + 0 = 10%

Turning to defendant's contention that the WCJ did not properly address apportionment of applicant's earlier awards in accordance with section 4664, we note that before apportionment under section 4664(b) will apply the defendant must prove *both* the existence of a prior award *and* overlap of the permanent disability caused by the two injuries. (*Kopping v. Workers' Comp. Appeals Bd.* (2006) 142 Cal.App.4th 1009 [71 Cal.Comp.Cases 1229]; *Minvielle v. County of Contra Costa* (2010) 76 Cal.Comp.Cases 896 (writ den.).) Overlap is *not* proven merely by showing that the second injury was to the same body part, because the issue of overlap requires a consideration of the factors of disability or work limitations resulting from the two injuries, not merely the body part injured. (*Ibid*; *State Compensation Ins. Fund v. Industrial Acc. Com.* (*Hutchinson*) (1963) 59 Cal.2d 45 [28 Cal.Comp.Cases 20]; *Gardener v. Industrial Acc. Com.* (1938) 28 Cal.App.2d 682 [3 Cal.Comp.Cases 143]; *Sanchez v. County of Los Angeles* (2005) 70 Cal.Comp.Cases 1440 (Appeals Board en banc).) This requirement was not changed by the legislature's adoption of section 4664. (*Kopping, supra.*)

Here, the March 9, 1995 stipulated award for permanent disability caused by injury to the left wrist and arm on June 21, 1990, was not shown by defendant to overlap the admitted injury to the knees, back and psyche in ADJ3544563 or ADJ9052552. Nor did defendant present substantial evidence showing that a portion of the stipulated permanent disability admittedly caused by injury to the back, neck, right arm, elbow and hand on July 16, 1994, overlapped the permanent disability caused by the injuries in the pending cases in light of the entire record. Thus, defendant did not prove overlap that would allow for apportionment of the earlier awards pursuant to section 4664. Moreover, the injury to psyche in ADJ3544563 in itself caused total permanent disability and there is no prior award for injury to that body part that would support apportionment pursuant to section 4664. (*Kopping, supra.*)

The January 2, 2014 Findings And Award of the WCJ is affirmed but amended in accordance with the above.

For the foregoing reasons,

IT IS ORDERED as the Decision After Reconsideration that the January 2, 2014 Findings And Award of the workers' compensation administrative law judge is **AFFIRMED**, except that Finding of Fact #3 and the Award in ADJ9052552 are **RESCINDED** and the following are **SUBSTITUTED** in their places:

FINDINGS OF FACT

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3. In ADJ3544563, the specific injury of 4/23/1999 caused 100% permanent disability after apportionment. In ADJ9052552, the cumulative trauma injury ending 4/23/1999 caused 10% permanent disability after apportionment.

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AWARD IN ADJ9052552

1) In accordance with Findings of Fact #3 and #5, 10% permanent disability which is all due and payable for a total benefit of $4,235 less a 15% attorney fee payable to Robert Wood Esq. and less permanent disability advances made up to the date of the Award, if any and subject to proof.

2) In accordance with Findings of Fact #4, further medical treatment which is reasonable and necessary to cure or relieve the effects of the industrial injury.

WORKERS' COMPENSATION APPEALS BOARD

MARGUERITE SWEENEY

I CONCUR,

DEPUTY
RICK DIETRICH

RONNIE G. CAPLANE

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

APR 24 2014

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

ROMERO LASTER
ROBERT WOOD
SAN FRANCISCO CITY ATTORNEY

JFS/abs