

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

**ANN LINDLEY, *Applicant***

**vs.**

**GOLDEN STATE MANOR/TAO TAI HOMES; OAK RIVER INSURANCE COMPANY;  
administered by BERKSHIRE HATHAWAY HOMESTATE COMPANIES;  
AIG CLAIMS SERVICES, *Defendants***

**Adjudication Numbers: ADJ10895246 (MF); ADJ10895160; ADJ10629441  
Van Nuys District Office**

**OPINION AND DECISION AFTER  
RECONSIDERATION**

We previously granted reconsideration to allow us time to further study the factual and legal issues in this case.<sup>1</sup> We now issue our Opinion and Decision After Reconsideration.

Lien claimant, Edwin Haronian, M.D., seeks reconsideration of the Joint Findings and Award<sup>2</sup> (JF&A) issued on July 6, 2022 by a workers' compensation administrative law judge (WCJ) wherein the WCJ found, in relevant part, that while employed by defendant on September 1, 2016, October 1, 2016, and during the period from January 1, 2003 through October 17, 2016, applicant did not sustain injury arising out of and occurring during the course of employment (AOE/COE) to the neck, arms, wrists, back, legs, ankle, foot or other orthopedic injuries. The WCJ further found that the reports of orthopedic panel Qualified Medical Evaluator (PQME), Elliott Schaffzin, M.D., dated December 30, 2019, and PQME, Joanne Halbrecht, M.D., dated October 26, 2019, and June 2, 2020, to be the "more reliable" reports, and that the reports of Dr. Haronian and Jonathan Kohan M.D. are not substantial medical evidence. Thereafter, the WCJ issued an order that they take nothing on their liens as well as an order dismissing both liens with prejudice.

---

<sup>1</sup>Commissioner Sweeney was on the panel that issued the order granting reconsideration. Commissioner Sweeney no longer serves on the Appeals Board. A new panel member has been appointed in her place.

<sup>2</sup> Although the decision of the WCJ is labeled as a Findings and Award, the decision is actually a Joint Findings and Order.

Dr. Haronian contends that the WCJ erred in finding the reports of Drs. Halbrecht and Schaffzin to be substantial medical evidence as the reports provide “inadequate apportionment discussions, medical histories, and examinations.” (Petition for Reconsideration (Petition), p. 7.) Dr. Haronian further contends that based upon his own medical reports, the JF&A should be vacated and a new JF&A issued to reflect that he has met his burden of proof in establishing injury AOE/COE. (*Ibid.*) In the alternative, Dr. Haronian requests an order for “new [PQME] reports addressing [the] issues that [the PQMEs] failed to address previously.” (*Id.* at p. 2.)

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 the Answer, and the contents of the Report. We have also reviewed the record in this matter. For the reasons discussed below, we will affirm the JF&A.

## FACTS

On June 8, 2017, applicant filed an Application for Adjudication of Claim (Application) claiming that while employed by defendant on October 1, 2016 (ADJ10895160) as an administrator, she sustained injury AOE/COE to the right arm, left foot, leg, and ankle, psyche, stress, insomnia, depression, heart, and high blood pressure. Applicant claimed four additional injuries, including September 1, 2016 (ADJ10895246) and August 1, 2016 (ADJ10895096) specific injuries to the same body parts, a cumulative injury during the period from January 1, 2003 through October 17, 2016 (ADJ10629441) to the right arm, left leg, stress, psyche, insomnia, and depression, and a May 1, 2014 (ADJ10629430) specific injury to the left foot and leg.

The parties retained Drs. Schaffzin and Halbrecht as the orthopedic PQMEs, both of whom evaluated applicant and authored reports.

In his report dated December 30, 2019, Dr. Schaffzin indicated that there was no evidence of a work-related cervical spine injury. (Exhibit A, p. 63.) He noted multiple prior falls outside of work and attributed applicant’s right shoulder, left hip, and left knee symptoms to said falls and other nonindustrial issues. (*Id.* at pp. 63-64.) With respect to applicant’s right lateral humeral epicondylitis and radial tunnel syndrome, he indicated that both were the result of a prior July 18, 2007 right elbow injury and ensuing surgery. (*Id.* at p. 63.) Further, although there was a

documented right hip and low back injury from August 25, 2014, there was no known left hip injury. (*Ibid.*) He thus concluded that applicant's left hip osteoarthritis and gait disorder resulted from prior injuries with a possible genetic component given past diagnostic finding of osteoarthritis on the right side. (*Ibid.*) He concluded also that applicant suffered from left foot and heel pain since at least September 3, 1997, when she suffered a slip and fall while working as a cook at Hilton Hotels. (*Id.* at p. 64.) She continued to have left heel pain through 2005, again in 2014, and ultimately sustained an August 25, 2014 slip and fall injury on the right side, but the injury was inconsistent with the development plantar fasciitis. (*Ibid.*) Dr. Schaffzin underscored that there existed no evidence that applicant's bilateral heel pain was attributable to a specific work injury. (*Ibid.*)

In her report dated October 26, 2019, Dr. Halbrecht similarly concluded that applicant's cervical and right upper extremity complaints were causally related to a prior July 18, 2007 motor vehicle accident. (Exhibit B, p. 46.) She noted also that the medical records did not substantiate "causal relationships" between applicant's symptoms to the left side of the body, left knee, left foot, neck, back, right shoulder, arms, bilateral knees and the alleged May 1, 2014, May 2016, September 2016, and October 2016 injuries. (*Id.* at p. 47.) She further elaborated that it was "more medically probable that applicant's back and leg pain are the result of an ongoing process of preexisting low back pain dating from the late 1990s that has been unrelenting and ongoing" as "there is no definitive temporal relationship to [applicant's] work activities and low back and leg pain." (*Id.* at p. 48.) Similarly, "[o]ngoing complaints of right upper extremity pain in the biceps and elbow area and right shoulder pain [are] very nonspecific[.]" (*Ibid.*) She concluded that "posture and body mechanics that are unrelated to her work activities or cumulative trauma" are the cause, including a "glenohumeral internal rotation deficit" and "[most] likely, a right thoracic scoliosis[.]" (*Ibid.*)

Upon review of Dr. Schaffzin's December 30, 2019 report, Dr. Halbrecht issued a supplemental report dated June 2, 2020 wherein she agreed that "there is no evidence of cumulative trauma" for the right humeral epicondylitis and "no impairment of the cervical spine" given applicant's "full range of motion of the cervical spine and no evidence of radiculopathy, muscle guarding, or spasm." (Exhibit C, p. 7.)

Soon after the above reports, applicant and Zurich American Insurance entered a joint Compromise and Release (C&R) Agreement settling the August 1, 2016 (ADJ10895096) and May

1, 2014 (ADJ10629430) specific injury claims. The WCJ issued an Order Approving Compromise and Release (OACR) on March 7, 2020 noting that approval was based partly on “the question of doubtful liability in light of the substantial possibility that adverse findings would totally bar the applicant’s entitlement to any benefits[.]”

Applicant, Oak River Insurance, Cypress Insurance, and AIG Insurance also entered into a joint Compromise and Release Agreement settling the disputed cumulative injury through October 17, 2016 (ADJ10629441) and September 1, 2016 (ADJ10895246) and October 1, 2016 (ADJ10895160), specific injury claims. The OACR issued on July 15, 2021, and the WCJ similarly noted that a “good faith dispute exists” as to whether applicant would prevail in any claim for benefits as to “all body parts alleged” based upon a review of the medical evidence, and “the question of doubtful liability.”

On May 26, 2022, Dr. Haronian filed a Notice and Request for Allowance of Lien regarding an alleged balance in the amount of \$11,188.97 for medical treatment “incurred by or on behalf of the injured employee, as provided by Labor Code § 4600.”

The matter proceeded to multiple hearings and was ultimately set for a lien trial, to be held on June 16, 2022.

At trial, the September 1, 2016 (ADJ10895246) and October 1, 2016 (ADJ10895160) specific injuries and cumulative trauma through October 17, 2016 (ADJ10629441) were ordered consolidated for trial and decision by the WCJ. The parties stipulated that the May 1, 2014 (ADJ10629430) and May 1, 2016 (ADJ10895096) injuries were “not relevant to the factual determination” of Dr. Haronian’s lien as he did not file a lien in said claims. (Minutes of Hearing (MOH), June 16, 2022, p. 2.) The parties further stipulated, in relevant part, to an alleged injury on September 1, 2016 (ADJ10895246) to the arms, legs, ankle, and foot (all other body parts were deemed irrelevant with respect to the lien trial), an alleged injury on October 1, 2016 (ADJ10895160) to the arm, leg, and foot (all other body parts were deemed irrelevant with respect to the lien trial) with coverage of both claims by Oak River Insurance Company, and an alleged cumulative injury during the period from January 1, 2003 through October 17, 2016 to the neck, arms, wrists, back, leg, and other orthopedic injuries, with coverage during the period pled by both Oak River Insurance and AIG Insurance.

The sole issue set for determination in all three cases was whether applicant sustained injury AOE/COE in relation to the liens of Drs. Haronian and Kohan, with all other issues deferred.

Drs. Haronian and Kohan submitted as evidence their various reports as well as copies of their liens and itemized bills. Oak River submitted as evidence, the reports of Drs. Schaffzin and Halbrecht and various delay and denial notices issued to applicant. No testimony was offered or received, and the matter stood submitted.

On July 6, 2022, the WCJ issued a JF&A which found, in relevant part, that while employed by defendant on September 1, 2016, October 1, 2016, and during the period from January 1, 2003 through October 17, 2016, applicant did not sustain injury AOE/COE to the neck, arms, wrists, back, legs, ankle, foot or other orthopedic injuries based upon the report of Dr. Schaffzin dated December 30, 2019, and the reports of Dr. Halbrecht dated October 26, 2019, and June 2, 2020. The WCJ further found that the reports of Drs. Haronian and Kohan are not substantial medical evidence of injury AOE/COE. The WCJ thereafter issued an order that they take nothing on their liens as well as an order dismissing both liens with prejudice.

It is from these findings and orders that Dr. Haronian seeks reconsideration.

## **DISCUSSION**

### **I.**

Turning now to the merits of the Petition, it is well established that the burden of proof rests upon the party holding the affirmative of the issue. (Lab. Code, § 5705.) As such, when an employee claims injury AOE/COE, it is the employee who carries the burden of proof in establishing industrial causation, and they must show that the employment was a contributing cause. (*South Coast Framing v. Workers' Comp. Appeals Bd. (Clark)* (2015) 61 Cal.4th 291, 297-298, 302; Lab. Code, §§ 5705, 3600.) Pursuant to section 3202.5, the evidentiary burden of proof is to be met by a preponderance of the evidence. However, "[t]hat burden manifestly does not require the applicant to prove causation by scientific certainty." (*Rosas v. Worker's Comp. Appeals Bd.* (1993) 16 Cal.App.4th 1692, 1701 [58 Cal.Comp.Cases 313].)

Further, substantial medical evidence is used to establish industrial causation. "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.4th 922, 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.” (*Kyle v. Workers' Comp. Appeals Bd (City and County of San Francisco)* (1987) 195 Cal.App.3d 614, 621.)

Where a lien claimant (rather than the injured employee) is litigating the issue of entitlement to payment for industrially related medical treatment, the lien claimant stands in the shoes of the employee and the lien claimant must prove by preponderance of the evidence all of the elements necessary to the establishment of its lien. (Lab. Code, §§ 3202.5, 5705; *Kaiser Foundation Hospitals v. Workers' Comp. Appeals Bd. (Martin)* (1985) 39 Cal.3d 57, 67 [50 Cal. Comp. Cases 411, 418]; *Kunz v. Patterson Floor Coverings Inc.* (2002) 67 Cal.Comp.Cases 1588, 1592 (Appeals Bd. en banc.)

Here, we agree with the WCJ that the permanent and stationary report of Dr. Haronian dated October 8, 2020 “does not perform a full review of medical history of the [a]pplicant.” (JF&A and Opinion on Decision (OOD), p. 3.) Particularly lacking is a discussion regarding applicant’s extensive prior injuries, including the July 18, 2007 motor vehicle accident which involved several overlapping body parts and ultimately led to a right elbow surgery. We agree with the WCJ that despite being provided with copies of the reports of Drs. Schaffzin and Halbrecht, Dr. Haronian “does not indicate why he disagrees with the PQME findings.” (*Ibid.*) Ultimately, his reports fail to provide a complete history or enough evidence and reasoning to support his conclusions. We note also that there appears to be no review by Dr. Haronian of medical records predating 2017.

Dr. Kohan, acting as a secondary physician in pain management, authored one medical report date July 26, 2017. His report similarly lacks a complete analysis of applicant’s medical history and medical records. Dr. Kohan also fails to address causation as to applicant’s claimed injuries to the cervical spine, right shoulder, left ankle, right and elbow.

In light of the foregoing, we agree with the WCJ that the reports of Drs. Haronian and Kohan do not constitute substantial medical evidence on the issue of injury AOE/COE with respect to the September 1, 2016 and October 1, 2016 specific injuries and cumulative injury from January 1, 2003 through October 17, 2016.

Dr. Haronian contends that it is the reports of Drs. Schaffzin and Halbrecht which are lacking in substantial medical evidence as they provide “inadequate apportionment discussions, medical histories, and examinations.” We will address the reports Drs. Schaffzin and Halbrecht in turn.

In preparation for the drafting of his December 30, 2019 medical report, we note that Dr. Schaffzin evaluated applicant and reviewed over 7500 pages of medical records spanning from 1993 through 2019. (Exhibit A, pp. 9-54.) Further, he indicated in his report that:

[Applicant] demonstrates no evidence for lumbar radiculopathy. Other than tenderness under the left heel, there is no indication that she has any type of injury or condition, nor any neuropathic condition causing pain. Lower extremity sensation is essentially symmetrical and intact and motor function is intact. This patient can be described as demonstrating a myofascial pain syndrome with a significant psychosocial component. There is no clear indication as to the cause of right shoulder adhesive capsulitis, although the patient did have significant fall at home on or about 10/14/16 which is the medically probable cause of the issue. If records can be provided clearly showing the attacks and altercations that Ms. Lindley describes at work, these issues can be revisited.

(*Id.* at p. 62.)

Based upon the foregoing, Dr. Schaffzin ultimately concluded that there was “no evidence for an injury to [applicant’s] cervical spine, AOE/COE.” (*Id.* at p. 64.) With respect to the left shoulder, he similarly noted that although there were complaints of pain, “there was no indication of an injury ... at work.” (*Id.* at p. 63.) With respect to the right shoulder, he felt that symptoms were the “result of nonindustrial issues including multiple falls” and found “no information, AOE/COE, in the reviewed records to indicate a right shoulder reinjury” at work. (*Id.* at pp. 63-64.) He attributed applicant’s symptoms to a prior motor vehicle accident of July 18, 2007, as well as “the fall at home down one[-]half flight of stairs on 10/14/16” and “an additional injury where an x-ray of the right shoulder was taken on 5/14/11 when she grabbed a friend from falling and heard a rip in her shoulder.” (*Id.* at p. 63.) With respect to applicant’s right elbow, including her diagnoses of right lateral humeral epicondylitis and radial tunnel syndrome, he attributed

symptoms to the July 18, 2007 motor vehicle accident and ensuing surgery. For the left hip and knee, Dr. Schaffzin similarly found no record of work-related injuries but noted extensive medicals showing “multiple falls out of work” as well as a potential genetic component given diagnostics indicating right hip osteoarthritis. (*Id.* at pp. 63-64.) Lastly, with respect to the left foot and heel, he indicated that there was no industrial causation as applicant “had issues with plantar fasciitis prior to working for Golden State Manor.” (*Id.* at p. 65.) For all the above reasons, Dr. Schaffzin noted that applicant’s “gait disorder and need for a cane cannot be considered AOE/COE[.]” (*Id.* at p. 63.)

Similarly, Dr. Halbrecht in her October 26, 2019 report, concluded that the extensive medical records reviewed do not substantiate “causal relationships” between applicant’s symptoms to the left side of the body, left foot, neck, back, right shoulder, arms, and knees and May 1, 2014, May 2016, September 2016, and October 2016 injuries. (Exhibit B, p. 47.) She explained that it was “more medically probable that applicant’s back and leg pain are the result of an ongoing process of preexisting low back pain dating from the late 1990s that ha[ve] been unrelenting and ongoing.” (*Id.* at p. 48.) She indicated that applicant’s cervical and right upper extremity complaints were “causally related to [a] MVA sustained [with a separate employer] on 7/18/2007.” (*Id.* at p. 46.) Further, “[o]ngoing complaints of right upper extremity pain in the biceps and elbow area and right shoulder pain” were found to be related to a nonindustrial “glenohumeral internal rotation deficit” and “[most] likely, a right thoracic scoliosis[.]” (*Id.* at p. 48.) In her June 2, 2020 report, Dr. Halbrecht agreed with Dr. Schaffzin that “there is no evidence of cumulative trauma” for the right humeral epicondylitis and “no impairment of the cervical spine” given applicant’s “full range of motion of the cervical spine and no evidence of radiculopathy, muscle guarding, or spasm.” (Exhibit C, p. 7.)

Based upon the foregoing and our review of the evidentiary record, we believe that the December 30, 2019 report of Dr. Schaffzin, and October 26, 2019 and June 2, 2020 reports of Dr. Halbrecht, constitute substantial medical evidence. Both PQMEs completed a full assessment of applicant, reviewed extensive medical records, took a detailed history, and provided evidence and reasoning in support of their conclusions. We therefore agree with the WCJ that there were no injuries AOE/COE on September 1, 2016, October 1, 2016, or during the period from January 1, 2003 through October 17, 2016 while applicant was employed by defendant.

Accordingly, we affirm the JF&A.

For the foregoing reasons,

**IT IS ORDERED**, as the Decision After Reconsideration of the Workers' Compensation Appeals Board, that the Joint Findings and Award issued on July 6, 2022, is **AFFIRMED**.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ JOSÉ H. RAZO, COMMISSIONER**

**I CONCUR,**

**/s/ PATRICIA A. GARCIA, DEPUTY COMMISSIONER**

**/s/ JOSEPH V. CAPURRO, COMMISSIONER**



**DATED AND FILED AT SAN FRANCISCO, CALIFORNIA**

**OCTOBER 2, 2026**

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

**SYNAPSE LIEN UNIT  
HEFLEY LAW, PC  
LOWER & KESNER**

**RL/cs**

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