WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA

ARMIDA MARTINEZ, ***Applicant***

vs.

CITY OF WOODLAKE; CENTRAL SAN JOAQUIN VALLEY RISK MANAGEMENT, ***Defendants***

Adjudication Number: ADJ8963138
Fresno District Office

OPINION AND ORDER GRANTING PETITION FOR RECONSIDERATION AND DECISION AFTER RECONSIDERATION

Applicant filed a Petition for Reconsideration (Petition) in response to the Findings of Fact, Award and Order (FFA&O) dated April 22, 2026, in which the workers' compensation administrative law judge (WCJ) found in pertinent part that applicant, while employed on June 8, 2010, by defendant, sustained injury arising out of and in the course of employment (AOE/COE) to the right shoulder, right hand/wrist, left knee, low back, and left shoulder, but did not sustain injury to the right knee or left hand/wrist. The WCJ ordered the record developed on issues of permanent and stationary date, permanent disability, apportionment and body parts.

Applicant contends the WCJ improperly precluded additional discovery regarding the right knee and left hand/wrist by finding applicant did not sustain injury to those body parts and that the *Hikida*[1] case requires the right knee be found industrial.

Defendant filed an Answer.

The WCJ's Report and Recommendation (Report) recommends that reconsideration be denied.

After review of the record and for the reasons discussed below, we will grant the Petition for Reconsideration, rescind the FFA&O and substitute a new FFA&O that defers the issue of injury to other body parts. We make no other substantive changes to the decision.

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[1] *Hikida v. Workers' Comp. Appeals Bd.* (2017) 12 Cal.App.5th 1249, 82 Cal.Comp.Cases 679.

I.

Former Labor Code section 5909[2] 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. (Former 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.

(Lab. Code, § 5909.)

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 May 29, 2026, and 60 days from the date of transmission is Tuesday, July 28, 2026. This decision issued by or on July 28, 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. Section 5909(b)(2) provides that service of the Report shall be notice of transmission.

[2] Unless otherwise stated, all further statutory references are to the Labor Code.

According to the proof of service, the Report was served on May 29, 2026, and the case was transmitted to the Appeals Board on May 29, 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 May 29, 2026.

II.

As found by the WCJ, applicant, while employed on June 8, 2010, by defendant, sustained injury AOE/COE to the right shoulder, right hand/wrist, left knee, low back, and left shoulder.

Applicant contends she also sustained injury to the right knee and left hand/wrist. The medical record consists of the reporting of Agreed Medical Evaluator (AME) Jeffrey Lundeen, M.D., which is digested here only as necessary to understand our decision.

A.

On January 27, 2021, AME Lundeen evaluated the applicant and took a history which includes:

> The patient states she was at work and was carrying data paper in her right hand and a glass of water in her left hand when she tripped over a box that was on the ground. The patient states that when she tripped, she fell forward onto a desk striking both knees and her right hand on the back of the desk. She states she then fell to the ground and reached out with her left arm to catch herself. The patient states that when she landed on her left arm, she suffered an injury to her left shoulder.

(Exhibit AA, pp. 1-2.)

"[F]rom the date of her injury, June 8, 2010, she continued to perform her regular job duties up until November 15, 2011, which was the date of her back surgery," when "she stopped working and has not worked in any capacity since that time." (Exhibit AA, p. 8.)

In addition to the lumbar surgery, applicant underwent a right total knee arthroplasty on October 29, 2013, a left total knee arthroplasty on August 5, 2014, and a second lumbar surgery on October 3, 2017. (Exhibit AA, pp. 4-5.)

The pre-injury history included: significant bilateral knee pain complaints including left knee arthroscopy on May 31, 2002; thoracic, right shoulder and upper arm pain with evidence of

severe right carpal tunnel syndrome; lumbar spine degeneration; and a prior right knee injury with arthroscopic surgery on December 23, 1998. (Exhibit AA, pp. 10-11.)

As part of his reporting AME Lundeen also summarized other medical reporting in this case as follows.

On June 15, 2010, treating physician William Foxley, M.D., noted that applicant had "Contusion, right hip." (EXH AA, p. 12.) The right hip contusion continued to be noted in Dr. Foxley's later reporting.

On June 21, 2011, Panel Qualified Medical Examiner (PQME) Butler, D.C., stated that:

> [A]rea of complaint would be the peripatellar area, the right knee. Does note that has had more limping due to the left lower extremity, which seems to flare the right knee. Long periods of walking and standing seem to flare. These pains come daily with increased activities and transitional motions. At worst, it can be 8/10.

(EXH AA, p. 19.)

In his July 11, 2012 report PQME Butler stated "[a]lso has pain in the right knee. Thinks that the right knee pain has continued to get worse due to the ongoing antalgic list brought on by the left leg over the past two years." (EXH AA, p. 28.) PQME Butler assessed a "[f]lare of the right knee, aggravation. Causation: Sustained injuries to the lumbar spine, left leg, right wrist, and right knee secondary to her fall on 06/08/10." (EXH AA, p. 29.)

PQME Butler's next report of September 1, 2015 diagnosed "[l]eft wrist sprain, compensable consequence" and also noted: "Sustained a compensable consequence involving the right knee secondary to gait modification brought on by the left knee and the left sciatic leg. Is developing left wrist pain as a compensable consequence due to overuse of the right hand/wrist." (EXH AA, p. 45.)

In a March 10, 2016 report PQME Butler stated "the cane is used not only with the left leg radiculopathy, but also to support the bilateral TKRs [total knee replacement]." PQME Butler explained "gait derangement is not only due to the lumbar spine, but also the left leg radiculopathy and bilateral TKRs." (EXH AA, p. 48.)

On May 27, 2020, PQME Butler stated "did sustain a compensable consequence involving the right knee secondary to gait modification brought on by the left knee and the sciatic left leg." (EXH AA, p. 61.)

An October 3, 2012 letter from Malcom Ghazal, M.D., provided in part: "Assessment: Severe end-stage osteoarthritis of both knees with bone-on-bone in all three compartments. Medial

subluxation of the femur on the tibia. Treatment Plan: Proceed with staged right than left total knee arthroplasties . . .” (EXH AA, p. 31.)

Returning to AME Lundeen, he concluded that:

> It is my opinion within reasonable medical probability that this patient's left shoulder pain condition, left hand and wrist condition, and right knee pain condition should be considered on a non-industrial basis as it relates to the June 8, 2010 injury involved in this claim.

(Exhibit AA, p. 85.)

In an August 26, 2022 supplemental report AME Lundeen stated:

> Support for my opinion is based on my review of available medical record reports which do not document any complaints of right knee pain as a result of the 06/08/10 incident. None of the medical record reports provide any diagnosis related to right knee injury. The mechanism of this injury is not consistent with specific trauma to the right knee.

(EXH CC, p. 1.)

On March 27, 2023, AME Lundeen issued a report after evaluation, changing his causation opinion for the left shoulder by stating:

> It is my opinion within reasonable medical probability that this patient's left shoulder pain condition is a compensable consequence of this patient's industrial right shoulder and right hand and wrist injury, June 8, 2010.
>
> It is my opinion within reasonable medical probability that this patient's left hand and wrist condition and right knee pain condition should be considered on a non-industrial basis as it relates to the June 8, 2010 injury involved in this claim.

(Exhibit BB, p. 17.)

AME Lundeen confirmed “that support for my opinions on causation with regard to this patient’s right knee pain condition can be found in my August 26, 2022 supplemental report.” (EXH BB, p. 24.)

B.

At trial the parties’ stipulations included that “[a]pplicant underwent a right total knee arthroplasty on 10/29/13 on an industrial basis.” Issues included “[p]arts of the body injured: Left hand/wrist and right knee.” (Minutes of Hearing (MOH), March 17, 2026, p. 2, lns 19-20; 22-23.) Also included as an issue was “[a]pplicability of *Hikida/County of Santa Clara Holdings* to the right knee.” (MOH, p. 3, lns 4-5.)

Applicant testified that: "the incident occurred on 6/8/10 while working for the City of Woodlake. She first started working for the City of Woodlake on 6/18/82 and retired in September of 2012." (MOH, p. 3, lns 23-24.) "She seldom uses her cane now because she cannot put weight on her hand. She uses a walker to get around and has callouses on her hands." (MOH, p. 4, lns 19-21.)

On April 22, 2026, the WCJ issued the FFA&O. In the Opinion on Decision, the WCJ stated that "Dr. Lundeen and Dr. Ghazal determined that within reasonable medical probability that absence of [*sic*] the June 8, 2010 injury involved in this claim, the applicant would have the current level of right knee impairment and disability." (Opinion on Decision, p. 5.) For the left wrist, the WCJ stated that "based on the medical evidence and discussion above," that "Dr. Lundeen's opinion is within reasonable medical probability" and that "applicant did not sustain injury" to the left hand/wrist. (Opinion on Decision, p. 6.)

The WCJ then concluded:

> According to the medical reports and the applicant's testimony, this court finds that the Applicant's condition has materially changed with regards to her activities of daily living and pain.
>
> Moreover, Dr. Lundeen's medical report was in March of 2023, it has been three years since his medical evaluation of the applicant, thus the March 2023 medical report is stale. The court also finds that the applicant needs to be re-evaluated by Dr. Lundeen for the right shoulder, right hand/wrist, left knee, low back, and left shoulder.

(Opinion on Decision, p. 6.)

Regarding the *Hikida* case the WCJ states "the applicant's total right knee replacement surgery did not worsen applicant's disability and did not result in a more disabling condition."[3] (Opinion on Decision, p. 8.)

It is from this FFFA&O that applicant seeks reconsideration.

III.

Decisions of the Appeals Board must be supported by substantial evidence. (California Labor Code, §§ 5903, 5952(d); *Lamb v. Workmen's Comp. Appeals Bd.* (1974) 11 Cal.3d 274, 281

[3] Although we do not discuss this point further, it is unclear how the WCJ determined the total right knee replacement "did not worsen applicant's disability" when the record does not appear to contain a medical opinion on right knee disability. (See EXH BB, p. 18 et seq.)

[39 Cal.Comp.Cases 310]; *Garza v. Workmen's Comp. Appeals Bd.* (1970) 3 Cal.3d 312, 317 [35 Cal.Comp.Cases 500]; *LeVesque v. Workmen's Comp. Appeals Bd.* (1970) 1 Cal.3d 627, 637 [35 Cal.Comp.Cases 16].)

"Medical reports and opinions are not substantial evidence if they are known to be erroneous, or if they are based on facts no longer germane, on inadequate medical histories and examinations, or on incorrect legal theories. Medical opinion also fails to support the Board's findings if it is based on surmise, speculation, conjecture or guess." (*Hegglin v. Workmen's Comp. Appeals Bd.* (1971) 4 Cal.3d 162, 169 [36 Cal.Comp.Cases 93].

A.

It appears the last treating report reviewed by AME Lundeen was the report from Boyd Johnson, D.O., dated October 6, 2022. (EXH BB, p. 13.) The case came to trial on March 17, 2026, more than three years after this last treating report.

In the FFA&O, the WCJ ordered the parties to develop the record "on the issues of Permanent and Stationary, Permanent Disability, and Apportionment *and body parts*." (FFA&O, p. 3, emphasis added.) The WCJ specifically noted the AME's last "medical report is stale" and further "that the applicant's condition has materially changed with regards to her activities of daily living and pain." (Opinion on Decision, pp. 6, 7.)

Where, as here, the medical reporting is admittedly "stale" and "applicant's condition has materially changed with regards to her activities of daily living and pain," it cannot be said substantial evidence supports a body part causation finding based on that medical reporting. This is especially true where the WCJ orders development of the record in multiple issues including "body parts."

The findings of no injury to the right knee and left hand/wrist are not supported by substantial evidence and further development of the record is appropriate.

B.

For the right knee we note the following also supports the need to develop the record.

1.

As required by section 5313 and explained in *Hamilton*, "the WCJ is charged with the responsibility of referring to the evidence in the opinion on decision, and of clearly designating the evidence that forms the basis of the decision." (*Hamilton v. Lockheed Corporation* (2001) 66 Cal.Comp.Cases 473, 475 (Appeals Board en banc).)

Here the WCJ properly references the record, namely an October 3, 2012 report from Malcolm Ghazal, M.D., that confirmed significant pathology in the right knee. The WCJ goes on, however, to state that "Dr. Lundeen *and Dr. Ghazal* determined that within reasonable medical probability that *absence* [sic] *of the June 8, 2010 injury involved in this claim, the applicant would have the current level of right knee impairment and disability*." (Opinion on Decision, p. 5, emphasis added.)

Here, Dr. Ghazal did not actually provide an opinion about applicant's impairment and disability absent industrial injury. (EXH AA, p. 31.) This absence of opinion is important because the WCJ premised, at least in part, the finding of the right knee as nonindustrial on a medical opinion that does not exist. It is common sense that a missing medical opinion cannot be substantial evidence to support a finding of no causation, which subjects the finding itself to uncertainty.

2.

AME Lundeen began discussing causation for the right knee by stating in his August 26, 2022 supplemental report:

> Support for my opinion is based on my review of available medical record reports which do not document any complaints of right knee pain as a result of the 06/08/10 incident. None of the medical record reports provide any diagnosis related to right knee injury. The mechanism of this injury is not consistent with specific trauma to the right knee.

(EXH CC, p. 1.)

Most recently in his report of March 27, 2023, AME Lundeen confirmed "that support for my opinions on causation with regard to this patient's right knee pain condition can be found in my August 26,2022 supplemental report." (EXH BB, p. 24.)

Each of the foundational statements provided by AME Lundeen do not appear to be supported by the record.

In considering the statement that none of available medical record reports "document any complaints of right knee pain as a result of the injury," it is only necessary to review the PQME reports from Dr. Butler to find the suppositional error. The summary for PQME Butler's June 21, 2011 report includes "area of complaint would be the peripatellar area, the right knee. Does note that has had more limping due to the left lower extremity, which seems to flare the right knee." (EXH AA, p. 19.) PQME Butler's July 11, 2012 report is summarized as stating "[a]lso has pain in the right knee. Thinks that the right knee pain has continued to get worse due to the ongoing

antalgic list brought on by the left leg over the past two years." (EXH AA, p. 28.) And further, "[f]lare of the right knee, aggravation. Causation: Sustained injuries to the lumbar spine, left leg, right wrist, and right knee secondary to her fall on 06/08/10." (EXH AA, p. 29.)

Here AME Lundeen starts from the false premise that there are no documented complaints of right knee pain as result of the injury. While we note that AME Lundeen does question PQME Butler's opinions on causation, questioning opinions on causation is different than incorrectly stating those opinions do not exist. It is apparent AME Lundeen's opinions are premised on an incorrect medical history.

Similarly, the statement that none of the medical record reports provide any diagnosis related to right knee injury is not born out by the record. In his July 11, 2012 report PQME Butler diagnosed a "[f]lare of the right knee, aggravation." (EXH AA, p. 29.) PQME Butler's next report of September 1, 2015 includes that applicant sustained a compensable consequence involving the right knee secondary to gait modification brought on by the left knee and the sciatic left leg. (EXH AA, p. 45.) Again, although AME Lundeen does discuss PQME Butler's opinions at length, it is the fact that the AME starts his reasoning based on facts not congruent with the record that is concerning. AME Lundeen's opinions are founded on an incorrect medical history.

AME Lundeen's statement that the mechanism of this injury is not consistent with specific trauma to the right knee appears without discussion of the relevant history. The AME does not acknowledge his own report of injury from the applicant "that when she tripped, she fell forward onto a desk *striking both knees* and her right hand on the back of the desk." (Exhibit AA, p. 1, emphasis added.)

Also telling is that although AME Lundeen finds no injury to the *right knee* in part based on his perceived lack of medical reporting, there is no discussion in his report of the significance, if any, of the *right hip contusion* which was noted within one week of the claimed injury. (See EXH AA digested treating physician William Foxley: p. 12 June 15, 2010, "Contusion, right hip;" p. 12 June 18, 2010, continued pain of "right hip" and "Contusion, right hip;" and pp. 12-16 with eight entries between June 29, 2010, and January 18, 2011, with "Contusion, right hip.") It certainly seems plausible to a lay reviewer that a right hip contusion may have some bearing on assessing an injury to the right knee.

"Where an issue is exclusively a matter of scientific medical knowledge, expert evidence is essential to sustain a [WCAB] finding; lay testimony or opinion in support of such a finding

does not measure up to the standard of substantial evidence. Expert testimony is necessary where the truth is occult and can be found only by resorting to the sciences." (*Peter Kiewit Sons v. I.A.C.* (1965) 234 Cal.App.2d 831, 838 [30 Cal.Comp.Cases 188].)

Acknowledging the limits of a lay review, it is clear a right hip contusion reported one week after injury should be acknowledged and discussed by an AME considering causation of a right knee injury. Here, AME Lundeen is completely silent on the relevance of the contusion. In the absence of a medical opinion on the relevance of the right hip contusion, the record must be further developed.

Although in his reporting AME Lundeen describes the right knee pathology at great length, his opinion on causation is clearly based on an inaccurate history. (*Hegglin*, *supra*, at p. 169.) AME Lundeen's opinion on causation of injury to the right knee is not substantial and the record must be developed.

C.

For causation of the left hand/wrist, AME Lundeen originally opined the "left shoulder pain condition, left hand and wrist condition, and right knee pain condition should be considered on a non-industrial basis." (Exhibit AA, p. 85.) This opinion for the left hand/wrist was confirmed in his final report that the "patient's left hand and wrist condition . . . should be considered on a non-industrial basis." (Exhibit BB, p. 17.)

Curiously, also in his final report AME Lundeen opined the "left shoulder pain condition is a compensable consequence of this patient's industrial right shoulder and right hand and wrist injury" without explaining how the left shoulder would be a compensable consequence injury, but the left hand/wrist would not. (Exhibit BB, p. 17.) The AME does digest the significant left hand/wrist pathology but does not provide necessary explanation as to why there is not an industrial left hand/wrist injury. Without providing the reasoning behind his opinion on left hand/wrist causation, AME Lundeen abandons the trier of fact to connect dots.

Medical opinion may not leave it to the lay trier of fact to find and connect relevant facts in support of an opinion. Such reasoning is the medical expert's realm and is required for a medical opinion to be substantial evidence. AME Lundeen's opinion on causation of injury for the left hand/wrist is not substantial.

IV.

In the Petition applicant asserts that defendant's authorization of medical treatment to the right knee in the form of arthroplasty requires any disability be found "compensable as an industrial consequence of the treatment." (Petition, p. 6, lns 13-14.) In support petitioner cites *Hikida*, *supra*, 12 Cal.App.5th 1249.

Hikida discussed the effect of an unsuccessful surgery on *permanent disability for an accepted body part*. (*Ibid*, pp. 1252-1253.) In the present case, the issue is *causation of injury*. The surgery in question was performed on a body part that, at least by the time of trial, was actively disputed.

The *Hikida* case does not discuss causation of injury but rather *the cause of permanent disability*. Permanent disability is an issue which is not ripe in the present matter. It is therefore premature to consider the *Hikida* case further and we defer any finding related to the applicability of the *Hikida* case.[4]

V.

A.

To be compensable, an injury must arise out of and occur in the course of employment. (Lab. Code, § 3600.) The employee bears the burden of proving injury AOE/COE by a preponderance of the evidence. (*South Coast Framing v. Workers' Comp. Appeals Bd.* (*Clark*) (2015) 61 Cal.4th 291, 297-298 [80 Cal.Comp.Cases 489]; Lab. Code, §§ 3600(a); 3202.5.) This is because "[t]he burden of proof rests upon the party or lien claimant holding the affirmative of the issue." (Lab. Code § 5705.)

Medical evidence that industrial causation was reasonably probable, although not certain, constitutes substantial evidence for finding injury AOE/COE. (*McAllister v. Workmen's Comp. Appeals Bd.* (1968) 69 Cal.2d 408, 417 [33 Cal.Comp.Cases 660].) "That 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].)

[4] Further complicating consideration of the *Hikida* case is the absence of medical opinion regarding right knee disability. (i.e. see EXH BB, p. 18 et seq.)

Here, applicant alleges injury to the right knee after working almost thirty years with defendant from a specific injury on June 8, 2010. (MOH, p. 3, lns 23-24.) The history of injury as taken by AME Lundeen is that:

> [S]he was at work and was carrying data paper in her right hand and a glass of water in her left hand when she tripped over a box that was on the ground. The patient states that when she tripped, she fell forward onto a desk striking both knees and her right hand on the back of the desk. She states she then fell to the ground and reached out with her left arm to catch herself. The patient states that when she landed on her left arm, she suffered an injury to her left shoulder.

(Exhibit AA, pp. 1-2.)

The parties stipulated and the WCJ found that "applicant underwent a right total knee arthroplasty on October 19, 2013 on an industrial basis." (MOH, p. 2, lns 19-20; FFA&O, p. 2.) Prior to the 2013 right knee surgery PQME Butler assessed a "[f]lare of the right knee, aggravation" and that applicant sustained injury to the right knee. (EXH AA, p. 29.)

We note the provision of benefits on its own, such as the right knee surgery here, is not an admission of liability. (Lab. Code, § 4909.) However, the record is unclear and requires development to establish whether there was any dispute or question concerning causation of the right knee or left hand/wrist at the time the right knee surgery was provided.

It appears likely from this record that PQME Butler was obtained through a section 4062 evaluation meant to resolve disputes over compensability. Depending on the process used to obtain the PQME Butler evaluation it is possible that the claimed right knee and the left hand/wrist injuries were accepted or are presumed industrial. If development of the record confirms either scenario, analysis of the burden of proof to deny right knee and left hand/wrist causation would be shifted to defendant as the party holding the affirmative of the issue. (Lab. Code § 5705.)

To be clear, even if the right knee and/or left hand/wrist were denied at the time of the surgery, these body parts may be subject to a presumption of industrial injury. (See *Simmons v. State of California* (2005) 70 Cal.Comp.Cases 866, 876-877, fn 8, (Appeals Board en banc).)

B.

It is noteworthy that it appears the first expert medical opinion finding causation of the left shoulder, left hand/wrist and right knee as nonindustrial is AME Lundeen's January 27, 2021, report. A report provided well *over decade after the claimed injury*. (Exhibit AA, p. 85.)

There may be instances where such change in opinion is appropriate, but there must be a clear record supporting such a change, especially when the change leads to the denial of benefits. This is because "a claims administrator must conduct *a reasonable and timely investigation* upon receiving notice or knowledge of an injury or claim for a workers' compensation benefit." (Cal. Code Reg., tit. 8, § 10109(a), emphasis added.) Indeed, if discovery reveals benefits should have been provided for a different date or type of injury, than the pleadings "may be amended by the Workers' Compensation Appeals Board to conform to proof." (Cal. Code Regs., tit. 8, § 10517.)

Further, when considering causation AME Lundeen does not discuss the history he took that applicant continued to work in her job for over a year until she underwent back surgery on November 15, 2011. (Exhibit AA, p. 8.) It is unclear from AME Lundeen's reporting if these work activities had any impact on the disputed body parts. In addition, there is no discussion considering if treatment after the date of injury was primarily directed at preparation for the lumbar surgery. That is, that focus may have minimized reporting on other body parts.

In discussing causation AME Lundeen expansively references biomechanical studies performed by Ian Harrington, M.D., finding "that in patients who have injury to one lower extremity that result in an antalgic gait or limp, these patients actually walk at a slower pace and performs less stressful activities than normal individuals" such "that an injury to one lower extremity is unlikely to cause compensable injury *to the uninvolved knee*." (Exhibit CC, p. 4, emphasis added.)

It is unclear how these studies with an *uninvolved knee* translate to the case before us. Here, there is pathology in the accepted left knee *but also significant pathology in the right knee*. Further, in 2015 "the cane is used not only with the left leg radiculopathy, but also to support the bilateral TKRs." (EXH AA, p. 48.) At trial applicant "seldom uses her cane now because she cannot put weight on her hand. She uses a walker to get around and has callouses on her hands." (MOH, p. 4, lns 19-20.) Because AME Lundeen does not discuss these differences from the studies it is impossible to determine the studies' value.

It appears AME Lundeen did not use independent medical judgment to evaluate causation but deferred to a loosely related medical study. AME Lundeen failed to properly apply the reasonably probable standard when evaluating causation of injury. (*McAllister*, *supra*, at p. 417.) Further development of the record is required.

Where it is determined that the medical record requires further development, the preferred procedure is to allow supplementation by the physician who has already reported in the case. If the supplemental opinions of the previously reporting physician do not or cannot cure the need for development of the medical record, the selection of a different agreed medical evaluator (AME) by the parties should be considered. If none of the procedures outlined above is possible, the WCJ may resort to the appointment of a regular physician, as authorized by section 5701. (*McDuffie*, *supra*, at pp. 142-143.)

VI.

Following our independent review of the record, and for the reasons stated above, we grant applicant's May 18, 2026 Petition for Reconsideration and rescind the April 22, 2026 Findings of Fact, Award and Order and substitute a new FFA&O that defers the issue of injury to the right knee and left wrist/hand. We make no other substantive changes.

For the foregoing reasons,

IT IS ORDERED that applicant's May 18, 2026 Petition for Reconsideration is **GRANTED**.

IT IS FURTHER ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the April 22, 2026 Findings of Fact, Award and Order, issued by the WCJ is **RESCINDED** and the following is **SUBSTITUTED** therefor:

FINDINGS OF FACT

1. Armida Martinez, while employed on June 8, 2010 as an Account Tech, occupational group number 111, at Woodlake, California by the City of Woodlake, sustained injury AOE/COE to the right shoulder, right hand/wrist, left knee, low back, and left shoulder, and claims to have sustained injury AOE/COE to left hand/wrist, and right knee. The issue of injury to other parts is deferred.

2. At the time of injury, the employer's workers' compensation carrier was Central San Joaquin Valley Risk Management, administered by Acclamation.

3. At the time of injury, the employee's earnings were $909.00 per week warranting indemnity rates of $606.00 for temporary disability and $230.00 for permanent disability.

4. The carrier/employer has paid compensation as follows: Temporary disability paid at the weekly rate of $606.00 for the periods of February 2, 2011 through May 25, 2011 and November 15, 2011, through July 24, 2013 for a total temporary disability of $59,214.83. Permanent disability paid at weekly rate of $230.00 for the period of July 25, 2013 through May 19, 2016 for a total permanent disability of $33,821.66.

5. Applicant is in need of medical treatment to cure or be relieved from the effects of the injury.

6. All other issues are deferred.

AWARD

AWARD IS MADE in favor of ARMIDA MARTINEZ against CITY OF WOODLAKE of:

Further medical treatment to cure and/or be relieved from the effects of the industrial injury.

ORDER

The parties are ordered to further develop the record on the issues of injury to other body parts, the date that applicant reached maximum medical improvement, permanent disability, and apportionment.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

I CONCUR,

/s/ PAUL F. KELLY, COMMISSIONER

/s/ JOSÉ H. RAZO, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

July 28, 2026

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

ARMIDA MARTINEZ
MITCHELL & POWELL
DUNCAN CASSIO

PS/oo

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