WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

ESPERANZA LUCIA MELENDEZ (Deceased), ***Applicant***

vs.

KELLERMEYER BERGENSONS SERVICES, LLC;
GALLAGHER BASSETT SERVICES, INC., third party administrator
for AMERICAN ZURICH INSURANCE COMPANY, ***Defendants***

Adjudication Numbers: ADJ2126841 (LAO 0848423); ADJ1993389 (LAO 0880193)
Los Angeles 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. This is our Opinion and Decision After Reconsideration.[1]

Defendant seeks reconsideration of the Findings of Fact and Order (Findings) in ADJ2126841 issued on November 17, 2021, by the workers' compensation administrative law judge (WCJ).[2] The WCJ found, in pertinent part, that the decedent sustained additional industrial injury to her left shoulder and in the form of chronic pain syndrome; she bifurcated the issues related to medical treatment, including the issue of home health care services.

Defendant contends that under the equitable doctrines of *res judicata* and collateral estoppel and pursuant to the statutory limitations in Labor Code section 5804[3], the WCJ's findings as to injury to applicant's left shoulder and in the form of chronic pain syndrome were barred because in our Opinion and Decision After Reconsideration of October 23, 2014, we issued Findings that applicant sustained industrial injury to her low back, right shoulder, and psyche.

We have received an answer from applicant. The WCJ filed a Report and Recommendation on Petition for Reconsideration (Report) recommending that we deny reconsideration.

---

[1] Commissioner Lowe was on the panel that issued the order granting reconsideration. Commissioner Lowe no longer serves on the Appeals Board. A new panel member has been appointed in her place.

[2] Although the cases were consolidated for trial, the WCJ failed to issue a decision in ADJ1993389.

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

We have considered the allegations in defendant's Petition, applicant's Answer and the contents of the WCJ's Report with respect thereto. Based on our review of the record, and for the reasons discussed in the WCJ's Report, which we adopt and incorporate, and as discussed below, as our Decision After Reconsideration, we affirm the WCJ's November 17, 2021 decision.

Collateral estoppel falls under the rubric of res judicata, which refers to both claim preclusion and issue preclusion. "Claim preclusion, the 'primary aspect' of res judicata, acts to bar claims that were, or should have been, advanced in a previous suit involving the same parties. Issue preclusion, the 'secondary aspect' historically called collateral estoppel, describes the bar on relitigating issues that were argued and decided in the first suit." (*Hudson v. Foster* (2021) 68 Cal.App.5th 640, fn. 10.)

With respect to res judicata, in *Le Parc Community Assn. v. Workers' Comp. Appeals Bd.* (*Curren*) (2003) 110 Cal.App.4th 1161 [68 Cal. Comp. Cases 1041], the Court of Appeal explained the doctrine as follows:

> Under the doctrine of *res judicata*, a valid, final judgment on the merits precludes parties or their privies from re-litigating the same "cause of action" in a subsequent suit. (*Mycogen Corp. v. Monsanto Co.* (2002) 28 Cal.4th 888, 896 [51 P.3d 297, 123 Cal. Rptr. 2d 432] (*Mycogen*); *Slater v. Blackwood* (1975) 15 Cal.3d 791, 795 [543 P.2d 593, 126 Cal. Rptr. 225].) *Res judicata*, or claim preclusion, prevents re-litigation of the same cause of action in a second suit between the same parties or parties in privity with them… Under the doctrine of *res judicata*, if a plaintiff prevails in an action, the cause is merged into the judgment and may not be asserted in a subsequent lawsuit; a judgment for the defendant serves as a bar to further litigation of the same cause of action. (*Mycogen,* at pp. 896–897, citation and fn. omitted.)

(*Id.* at p. 1169)

With respect to collateral estoppel, as stated by the Supreme Court in *Pacific Lumber Co. v. State Water Resources Control Bd.* (2006) 37 Cal.4th 921:

> Collateral estoppel precludes relitigation of issues argued and decided in prior proceedings. The doctrine applies only if several threshold requirements are fulfilled. First, the issue sought to be precluded from relitigation must be identical to that decided in a former proceeding. Second, this issue must have been actually litigated in the former proceeding. Third, it must have been necessarily decided in the former proceeding. Fourth, the decision in the former proceeding must be final and on the merits. Finally, the party against whom preclusion is sought must be the same as, or in privity with, the party to the former proceeding. The party asserting collateral estoppel bears the burden of establishing these requirements.

(*Id.* at p. 943 (internal quotation marks and citations omitted).)

Here, the doctrine of collateral estoppel, rather than res judicata, is at issue, since the question is not whether applicant's claim of injury to her right shoulder, low back, and psyche was adjudicated

in 2014, but rather, whether injury to the body parts of her left shoulder and in the form of chronic pain syndrome were decided by the WCJ at that time. (See *DKN Holdings LLC v. Faerber* (2015) 61 Cal.4th 813, 824 ["issue preclusion applies...after final adjudication...of an identical issue...actually litigated and necessarily decided in the first suit..."].) As discussed above, for collateral estopped to be found applicable, and thus to preclude an issue being relitigated, the party arguing in its favor (defendant, in the present case) must prove five elements: 1) that the issue sought to be precluded from relitigation is identical to that decided in a former proceeding; 2) that this issue must have been actually litigated in the former proceeding; 3) that it must have been necessarily decided in the former proceeding; 4) that the decision in the former proceeding must be final and on the merits; and 5) that the party against whom preclusion is sought must be the same as, or in privity with, the party to the former proceeding. (*Pacific Lumber*, *supra*, 37 Cal.4th at p. 943.)

Here, defendant has failed to meet its burden of proof regarding the third and fourth elements. The third element, that the issue must have been necessarily decided in the former proceeding, is not met because the October 23, 2014 Findings did not include findings or orders about applicant's body parts other than right shoulder, low back and psyche. Thus, the question of whether applicant sustained injury AOE/COE to body parts other than right shoulder, low back psyche was not "decided." Regarding the fourth element, the 2014 decision is final, but it did not address the merits of these specific claims of injury to applicant's left shoulder and in the form of chronic pain syndrome.

A petition for reconsideration may properly be taken only from a "final" order, decision, or award. (Lab. Code, §§ 5900(a), 5902, 5903.) A "final" order has been defined as one that either "determines any substantive right or liability of those involved in the case" (*Rymer v. Hagler* (1989) 211 Cal.App.3d 1171, 1180; *Safeway Stores, Inc. v. Workers' Comp. Appeals Bd.* (*Pointer*) (1980) 104 Cal.App.3d 528, 534-535 [45 Cal.Comp.Cases 410]; *Kaiser Foundation Hospitals v. Workers' Comp. Appeals Bd.* (*Kramer*) (1978) 82 Cal.App.3d 39, 45 [43 Cal.Comp.Cases 661]) or determines a "threshold" issue that is fundamental to the claim for benefits. (*Maranian v. Workers' Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1070, 1075 [65 Cal.Comp.Cases 650].)

Here, applicant did not raise the issue of injury to her left shoulder or chronic pain syndrome during the 2012 and 2013 trial proceedings, nor did defendant raise it in the subsequent petition for reconsideration following the November 27, 2013 decision. And, neither the WCJ's 2013 findings nor our 2014 findings included a finding that applicant did not sustain injury to any other body parts. Thus, the parties did not list the left shoulder or chronic pain as issues in the 2012 and 2013 Minutes of Hearing, and the court did not decide those issues on the merits as required. (*Pacific Lumber, Co*.,

supra, 37 Cal.4th 921, 943.) This lack of a "final order" regarding these body parts precluded applicant from filing a petition for reconsideration regarding those body parts at that time. That is, since the only findings by the WCJ in the November 27, 2013 decision were as to the body parts of right shoulder, psyche, low back and right ankle, and those were the only findings of injury to body parts that could be challenged by way of a petition for reconsideration, and the only findings by the Appeals Board in the October 23, 2014 decision were as to the body parts of right shoulder, psyche, and low back,[4] and those were the only findings of injury to body parts that could be challenged by way of a writ of review.

Finally, where there is an existing award for further medical treatment, the WCAB has continuing jurisdiction under section 5803 to enforce that medical treatment award more than five years after the date of injury, even in the absence of a filed petition for new and further disability under section 5410. In enforcing a general award of further medical treatment, the WCAB may require an employer or insurance carrier to provide treatment for a condition that is a compensable consequence of the industrial injury, even if that condition was not part of the original award and even if the injured employee first requests treatment for the condition more than five years from the date of the injury. (*Meadows v. Bridgestone* [2019 Cal. Wrk. Comp. P.D. LEXIS 498, *2-3]; *Davidson v. County of Sacramento Sheriff Dept.* [2014 Cal. Wrk. Comp. P.D. LEXIS 146, *5].)[5] Under the WCAB's continuing jurisdiction, where a subsequent injury is the direct and natural compensable consequence of an original industrial injury, the subsequent injury is considered to relate back to the original injury and is not a separate injury. (*Crossley v. Fed. Express Corp.* [2015 Cal. Wrk. Comp. P.D. LEXIS 342, *7-8]; *Shaw v. Automobile Club of Southern California* (2023) 89 Cal.Comp.Cases 166, 171.)

Based on the above discussion, we find no reasonable basis to disturb the WCJ's findings as to the body parts of the left shoulder and chronic pain syndrome based on the well-reasoned Qualified Medical Evaluator (QME) report of Jeffrey Berman, M.D., dated June 29, 2017.

[4] We observe that the lack of a finding with respect to injury to the right ankle in our 2014 decision also means that the issue was not finally decided.

[5] Unlike en banc decisions, panel decisions are not binding precedent on other Appeals Board panels and WCJs. (See *Gee v. Workers' Comp. Appeals Bd.* (2002) 96 Cal.App.4th 1418, 1425, fn. 6 [67 Cal.Comp.Cases 236].) However, panel decisions are citable authority and we consider these decisions to the extent that we find their reasoning persuasive, particularly on issues of contemporaneous administrative construction of statutory language. (See *Guitron v. Santa Fe Extruders* (2011) 76 Cal.Comp.Cases 228, 242, fn. 7 (Appeals Board en banc); *Griffith v. Workers' Comp. Appeals Bd.* (1989) 209 Cal.App.3d 1260, 1264, fn. 2 [54 Cal.Comp.Cases 145].) Here, we refer to these panel decisions because they considered a similar issue.

A conclusion that those additional body parts constituted compensable consequence injuries relating back to the original injury does not run afoul of section 5804, or the doctrines of *res judicata* or collateral estoppel, notwithstanding the Compromise and Release dated March 5, 2020 and our 2014 Findings.

Defendant's contention that the WCJ erred in amending the stipulations on the day of trial and that the parties were somehow bound to prior stipulations made in the pre-trial conference statements is similarly unconvincing. At the October 8, 2020 trial, the parties formulated the following stipulation with respect to case number ADJ2026841 (LAO 0848423):

> 1. Esperanza Melendez, [], while employed on July 19, 2004, as a janitor, Occupational Group No. 340, at Los Angeles, California, by Kellermeyer Bergensons Services, Inc., formerly known as Kellermeyer Building Services, sustained injury arising out of and in the course of employment to her right shoulder, psyche, and low back, and claims to have sustained injury arising out of and in the course of employment to her teeth, jaw, brain, diabetes, sleep, kidneys, left shoulder, high blood pressure, chronic regional pain syndrome, and head.

(MOH/SOE, 10/08/2021, 2:12-17)

In addition, the parties raised the issue of parts of body for adjudication. (MOH/SOE, 10/08/2021, 2:24-25)

However, other than the bifurcation of the need for further medical treatment (MOH/SOE, 10/08/2021, 3:1-2, 21-22), defendant did not raise any objection to the reformation of the stipulations and issues. Failure to raise an issue at trial generally forecloses the right to raise that issue on reconsideration. (*Davis v. Interim Healthcare* (2000) 65 Cal.Comp.Cases 1039, 1044 (Appeals Board en banc); *Cuevas v. Workers' Comp. Appeals Bd*. (2005), 70 Cal.Comp.Cases 479, 483-484 (writ denied); *Los Angeles Unified Sch. Dist. v. Workers' Comp. Appeals Bd. (Henry)* (2001) 66 Cal.Comp.Cases 1220, 1221 (writ denied).) The time for defendant to object to the reformulation of the issue was on the record at the trial. Having waived that issue and asserting it now for first impression on reconsideration, it cannot claim to be aggrieved after-the-fact.

Accordingly, as our Decision After Reconsideration, we affirm the November 17, 2021 decision.

For the foregoing reasons,

IT IS ORDERED, as the Decision After Reconsideration of the Workers' Compensation Appeals Board, that the November 17, 2021 Findings of Fact and Order is **AFFIRMED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ JOSEPH V. CAPURRO, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

APRIL 13, 2026

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

ESPERANZA LUCIA MELENDEZ
SOLOV & TEITELL, APC
BARRAGAN & SATZMAN, LLP

DLP/md

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

REPORT AND RECOMMENDATION ON PETITION FOR RECONSIDERATION

(Please note- while the Petition.for Reconsideration notes both case numbers. the Petitioner has only addressed the master file, case number ADJ2126841 and is not seeking reconsideration of companion case number ADJ1993389)

INTRODUCTION

In **ADJ2126841,** Applicant Esperanza Lucia Melendez, while employed on July 19, 2004 as a janitor by Kellermeyer Bergensons Services, Inc, formerly known as Kellermeyer Building Services sustained injury arising out of and in the course of employment to her right shoulder, low back and psyche and claimed to have sustained injury arising out of and in the course of employment to her teeth, jaw, brain, diabetes, sleep, kidneys, left shoulder, high blood pressure. chronic regional pain syndrome and head. The defendant as Petitioner has filed on December 13, 2021 a timely Petition for Reconsideration from the Findings of Fact and Orders which issued on November 18, 2021.

The Petitioner contends that this WCJ erred 1) by finding injury to the additional body parts, left shoulder and Chronic Regional Pain Syndrome ("'CRPS"), which were claimed more than five years post-date of injury and after the Opinion and Decision After Reconsideration dated October 23, 2014 finding applicant did not sustain injury AOE/COE to her right ankle which was the only disputed body part at the trial on June 26, 2012 and October 15, 2013; 2) by not finding that the doctrines of res judicata and collateral estoppel were applicable in this matter; and 3) by finding AOE/COE to the applicant's left shoulder and CRPS were supported by the evidence and do not support the Findings of Fact based on the Opinion on Decision.

II. FACTS

Applicant Esperanza Lucia Melendez, while employed on July 19. 2004 as a janitor by defendant/Petitioner Kellermeyer Bergensons Services, Inc formerly known as Kellermeyer Building Services sustained injury arising out of and in the course of employment to her right shoulder, low back and psyche and claims to have sustained injury arising out of and in the course of employment to her teeth, jaw, brain, diabetes, sleep, kidneys,

left shoulder, high blood pressure, chronic regional pain syndrome and head. The parties resolved the indemnity issues in this matter by Compromise and Release and Amended Order Approving Compromise and Release dated March 5, 2020. Although the parties did not stipulate, it is the Court's understanding that the applicant is deceased and the parties did not file a copy of the death certificate to date. The issues submitted in this matter were parts of body injured with the defendant raising collateral estoppel and res judicata. The issue of home health care was bifurcated over the defendant's objection.

This case has been pending since 2004 and has been set for Trial numerous times since 2010 as well as Expedited Hearings in 2006 and 2007. The case ultimately proceeded to Trial on June 25, 2012 and October 15, 2013. At the October 15, 2013 Trial the WCJ at that time reiterated that the parties stipulated to injury AOE/COE to the applicant's low back, psyche and right shoulder with the issues submitted as parts of body injured: right ankle, need for further medical treatment, specifically home health care from January 23, 2012 forward and continuing and whether there was a valid and legal request for authorization for home health care at least as of January 23, 2012. (Minutes of Hearing & Summary of Evidence, EAMS DOC ID#50146260) The WCAB issued the Opinion and Decision After Reconsideration dated October 23, 2014 finding applicant did not sustain injury AOE/COE to her right ankle, that further medical treatment is required to cure or relieve the effects of this injury including home health care with the scope and amount of home health care required deferred. The matter was returned to the trial level for further proceedings and decisions by the WCJ as required, consistent with the Opinion (EAMS DOC ID#54289023). Thereafter the parties continued to litigate the matter and at the May 17, 2016 a trial was again set with WCJ Hernandez for July 14, 2016. The Pre-Trial Conference Statement from May 17, 2016 (EAMS DOC ID#60247584) only notes as issues attorneys' fees and home health care pursuant to the October 23, 2014 Opinion and Decision After Reconsideration and did not seek to try permanent disability or any other issues. The case was continued on July 14, 2016 as WCJ Hernandez had retired from the bench and the case was again continued and reassigned to this WCJ. At the August 25, 2016 Trial date the matter was taken off calendar as the parties still needed to develop the record (EAMS DOC ID#61244844).

The matter was continued a number of times for various reasons including but not limited to the parties needing to amend their Pre-Trial Conference Statement, the parties joint requests for continuance, this WCJ's handing of continuing testimony trials, problems with exhibits, as well as continuances due to the pandemic. The parties ultimately set the matter for trial again in 2019 and on May 29, 2019 set the matter on all issues (See May 29, 2019 PreTrial Conference Statement (EAMS DOC ID#70339990). However the parties had not yet resolved the issues set forth in the October 23, 2014 Opinion and Decision After Reconsideration. The parties were again continued to amend the PreTrial Conference Statement. The parties ultimately resolved the indemnity issues in this matter by Compromise and Release and Amended Order Approving Compromise and Release dated March 5, 2020 (EAMS DOC ID#s 72326595 & 72404120) prior to the Covid Safer at Home orders.

On October 8, 2020 the Stipulations and Issues were read into the record and the matter then continued for the listing of Exhibits and any potential testimony (EAMS DOC ID#73433985). There was an additional continuance and at the trial setting on February 9, 2021, the parties advised the court that the applicant was deceased and that depositions of the heirs had been set. At the trial setting on August 19, 2021, the case was submitted for decision on the issues of parts of body injured with the applicant claiming to have sustained injury arising out of and in the course of employment to her teeth, jaw, brain, diabetes, sleep, kidneys, left shoulder, high blood pressure, chronic regional pain syndrome and head with the defendant raising collateral estoppel and res judicata and the issue of home health care was bifurcated (EAMS DOC [0#74605931).

This Judge issued her Findings of Fact and Orders on November 18, 2021. Defendant's timely verified Petition for Reconsideration followed. Although untimely, Applicant filed a verified Answer to the Petition for Reconsideration dated January 4, 2021.

DISCUSSION

Petitioner asserts that it was an error for this Judge to 1) find injury to the additional body parts, left shoulder and Chronic Regional Pain Syndrome ("CRPS"), which were claimed more than five years post-date of injury and after the Opinion and Decision After Reconsideration dated October 23, 2014 finding applicant did not sustain injury AOE/COE to her right ankle which was the only disputed body part at the trial on June 26, 2012 and

October 15, 2013; 2) to not find that the doctrines of res judicata and collateral estoppel were applicable in this matter; and 3) to find AOE/COE to the applicant's left shoulder and CRPS were supported by the evidence and were not supported the Findings of Fact #1 based on the Opinion on Decision.

The doctrines of res judicata and collateral estoppel are well settled in the law and preclude the parties from re-litigating cases or issues. Here while the parties did again litigate parts of body injured, they only body part that was litigated and ultimately found non-industrial in 2014 was the right ankle. It should be noted the February 24, 2020 Compromise and Release (EAMS DOC ID#72326595) at page 6, paragraph 8 reads in relevant part with emphasis added as follows:

"ONLY ISSUES REGARDING PERMANENT DISABILITY, TEMPORARY DISABILITY, ALLEGED P&I THERETO, NEW AND FURTHER DISABILITY, RETRO-TEMPORARY DISABILITY, UNDERPAYMENT OR OVERPAYMENT OF TD/PD, APPLICANT'S ATTORNEY FEES RE PERMANENT DISABILITY AND APPLICANT'S ATTORNEY LIENS AGAINST COMPENSATION ARE BEING RESOLVED BY THIS SETTLEMENT AGREEMENT AND OACR. **NO BODY PARTS ARE BEING RESOLVED BY THIS COMPROMISE AND RELEASE, NOR IS FUTURE MEDICAL CARE BEING RESOLVED OR MEDICAL LIENS. THIS SETTLEMENT AGREEMENT SHALL NOT BE CONSTRUDE RESOLUTION OF ANY DISPUTED BODY PART OR ISSUE.** THE PARTIES MERELY WISH TO BUY THEIR PEACE REGARDING THE POTENTIAL EXPOSURE FOR TEMPORARY DISABILITY AND PERMANENT DISABILITY. THIS DOES NOT RESOLVE THE (HHC) HOME HEALTHCARE ISSUE."

Clearly, Defendant who drafted the typed language noted above was on notice that there were still issues of parts of body injured in this case well after five years post 2004 date of injury. As noted about applicant did sustain an industrial injury to her right shoulder, low back and psyche on July 19, 2004. The WCAB in the Opinion and Decision after reconsideration dated October 23, 2013 found that the applicant did not sustain an injury to her right ankle. At the previous trial in this matter on October 13, 2013, the part of body issue was only listed as right ankle. Based on the extensive medical record, the Applicant's condition worsened over the years. Applicant also alleged additional body parts as teeth, jaw, brain, diabetes, sleep, kidneys, left shoulder, high blood pressure, chronic regional pain syndrome and head.

The parties submitted a voluminous amount of exhibits over the years in this matter.

Applicant submitted Exhibits 1-25 (Applicant Exhibits 1-16 were introduced at the initial trial on June 26, 2012), Defense submitted Exhibits A-GGG (Defense Exhibits A-P were introduced at the June 26, 2012 trial, Exhibits Q-AA at the October 13, 2013 Trial). Also at the October 13, 2013 Trial the parties introduced Joint Exhibit 1, the deposition of applicant dated May 12, 2011 since the applicant had been found incompetent and an Order appointing Guardian Ad Litem had issued on July 23, 2013. At the trial on August 19, 2021, Applicant introduced additional Applicant's Exhibits 17-25 and Defendant Exhibits BB-GGG.

After an extensive and exhaustive review of the Exhibits in this matter, there did not appear to be any substantial medical evidence or testimonial evidence of any industrial injury to the applicant's teeth, jaw, or head. Additionally, based on the medical reporting of Defense orthopedic QME Lee Woods (Applicant Exhibit 14, Defense Exhibits A, B, BB-LL), Applicant's orthopedic QME Jeffrey Berman (Applicant's Exhibits 24 & 25) which were both well reasoned and persuasive, it also appeared that the applicant sustained an industrial injury to her left shoulder as well as chronic regional pain syndrome. In connection with the applicant's alleged injury to her kidneys, diabetes, brain, sleep, and high blood pressure, the Defense QME report in internal medicine from Alan Ross, M.D. (Defense Exhibits XX & YY) and the Defense QME reporting of Norman Namerow, M.D. (Defense Exhibit MM) were better reasoned and more persuasive. Based on the medical record, applicant had a long history of non-industrial diabetes and diabetic neuropathy which predated the July 19, 2004 date of injury. As noted the reporting of Dr. Ross and Dr. Namerow opined that applicant's allegations of industrial injury to her kidneys, diabetes, brain, sleep, and high blood pressure could not be sustained. Therefore, based on the foregoing the applicant also sustained injury arising out of and in the course of employment on July 19, 2004 to her left shoulder and chronic regional pain syndrome, but did not sustain an industrial injury to her kidneys, diabetes, brain, sleep, and high blood pressure.

In connection with the defendant's allegations of collateral estoppel and res judicata, the only body part that had previously been submitted for decision was that of the right ankle, which applicant did not attempt to re-litigate. The other parts of body alleged all are noted in the medical record after the initial trial in this matter in 2012 such that Defendant was actively

litigating all issues. Defendant had ample time to litigate these alleged body parts and as such it did not appear that either collateral estoppel of res judicata would be applicable as there was no final order with the exception of the right ankle and the indemnity issues with the 2020 Compromise and Release until this Judge issued her Findings of Fact and Orders on November 18, 2021.

RECOMMENDATION

Therefore, based on the foregoing, it is respectfully recommended that Defendant's Petition for Reconsideration denied in its entirety.

DATE: January 7, 2022

Diane E. Phillips
WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE