WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

ROBERTO OROZCO, *Applicant*

vs.

SOLCOM, INC., DBA SOLCOM COMMUNICATIONS, INC.;
ACE AMERICAN INSURANCE COMPANY, *Defendants*

Adjudication Number: ADJ13514341
San Francisco District Office

OPINION AND ORDER DENYING PETITION FOR RECONSIDERATION

We have considered the allegations of the Petition for Reconsideration and the contents of the Report and Recommendation on Petition for Reconsideration (Report) of the workers' compensation administrative law judge (WCJ) with respect thereto. Based on our review of the record, and for the reasons stated in the WCJ's Report, which we adopt and incorporate, and for the reasons stated below, we will deny the Petition for Reconsideration.

I.

Up through July 1, 2024, petitions for reconsideration were subject to former Labor Code[1] section 5909, which 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. (Lab. Code, § 5909.)

During the period from July 2, 2024 through June 30, 2026, petitions for reconsideration were subject to former section 5909, which stated 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.

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

> (2) For purposes of paragraph (1), service of the accompanying report, pursuant to subdivision (b) of Section 5900, shall constitute providing notice.

Under section 5909(a) (in effect from July 2, 2024 through June 30, 2026), 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 July 3, 2026 and 60 days from the date of transmission is September 1, 2026. This decision is issued by or on September 1, 2026, so that we have timely acted on the petition as required by section 5909(a) (in effect from July 2, 2024 through June 30, 2026).

Section 5909(b)(1) (in effect from July 2, 2024 through June 30, 2026) 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) (in effect from July 2, 2024 through June 30, 2026) provides that service of the Report and Recommendation shall be notice of transmission.

Here, according to the proof of service for the Report by the WCJ, the Report was served on July 3, 2026, and the case was transmitted to the Appeals Board on July 3, 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) (in effect from July 2, 2024 through June 30, 2026), because service of the Report in compliance with section 5909(b)(2) (in effect from July 2, 2024 through June 30, 2026) provided them with actual notice as to the commencement of the 60-day period on July 3, 2026.

II.

The decisions by the Appeals Board must be supported by substantial evidence. (Lab. Code, §§ 5903, 5952(d); *Lamb v. Workmen's Comp. Appeals Bd.* (1974) 11 Cal.3d 274 [39 Cal.Comp.Cases 310]; *Garza, supra*; *LeVesque v. Workmen's Comp. Appeals Bd*. (1970) 1 Cal.3d 627 [35 Cal.Comp.Cases 16].) "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 Hosp. v. Workers' Comp. Appeals Bd. (Bolton)* (1983) 34 Cal.3d 159, 164 [48 Cal.Comp.Cases 566], emphasis removed and citations omitted.) To constitute substantial evidence "… a medical opinion must be framed in terms of reasonable medical probability, it must not be speculative, it must be based on pertinent facts and on an adequate examination and history, and it must set forth reasoning in support of its conclusions." (*Escobedo v. Marshalls* (2005) 70 Cal.Comp.Cases 604, 621 (Appeals Board en banc).) Furthermore, the physician must explain the nature of the disease and how and why it is causing disability at the time of the evaluation. (*Id*.)

For the reasons stated by the WCJ, we are persuaded that the opinion of panel qualified medical evaluator (PQME) Rommel Hindocha, D.C., is substantial medical evidence upon which the WCJ appropriately relied to determine applicant's level of permanent disability by adding his impairments, consistent with the holding of *Vigil v. County of Kern (Vigil)* (2024) 89 Cal.Comp.Cases 686 [2024 Cal. Wrk. Comp. LEXIS 23] (Appeals Board en banc), rather than by combining the impairment pursuant to the Combined Values Chart (CVC).

Pursuant to section 4660.1, the Permanent Disability Rating Schedule (PDRS) is prima facie evidence of an injured employee's permanent disability. (Lab. Code, § 4660; cf. *Ogilvie v. Workers' Comp. Appeals Bd.* (2011) 197 Cal.App.4th 1262, 1274–1277 [76 Cal.Comp.Cases 624] (*Ogilvie*).) The PDRS provides that the ratings for multiple body parts arising out of the same injury are "generally" combined using the CVC, which is appended to the PDRS. (2005 PDRS, at p. 1–10.) Yet, because it is part of the PDRS, the CVC is rebuttable and a reporting physician is not precluded from utilizing a method other than the CVC to determine an employee's whole person impairment so long as the physician's opinion remains within the four comers of the American Medical Association Guides to the Evaluation of Permanent Impairment (5th Edition) (AMA Guides). (Lab. Code, § 4660; *Milpitas Unified School Dist. v. Workers' Comp. Appeals Bd. (Guzman)* (2010) 187 Cal.App.4th 808, 818–829 [75 Cal.Comp.Cases 837].)

Accordingly, the use of the multiple disabilities table (MDT)[2] is discretionary depending upon whether it produces a rating that fully compensates an applicant for the effects of his or her

[2] If the injury occurred prior to January 1, 2005, the table that is used to combine multiple permanent disabilities is the MDT. If the injury occurred on or after January 1, 2005, the table that is used to combine multiple permanent

injury. (*Mihesuah v. Workers' Comp. Appeals Bd*. (1976) 55 Cal.App.3d 720, 728 [41 Cal.Comp.Cases 81, 87] (*Mihesuah*).)

In *Kite v. East Bay Municipality Util. Dist*. (December 5, 2012, ADJ6719136) [2012 Cal. Wrk. Comp. P.D. LEXIS 640) (writ den. sub nom. *Athens Administrators v. Workers' Comp. Appeals Bd. (Kite)* (2013) 78 Cal.Comp.Cases 213 [2013 Cal. Wrk. Comp. LEXIS 34] (*Kite*), applicant underwent industrial bilateral hip replacement surgeries. The evaluating orthopedic QME opined that "there is a synergistic effect of the injury to the same body parts bilaterally versus body parts from different regions of the body," and that "the best way to combine the impairments to the right and left hips would be to add them versus using the combined values chart, which would result in a lower whole person impairment." (*Id*. at p. 5.) Accordingly, the WCJ determined that the most accurate rating of applicant's permanent disability would be achieved by adding the impairment for each hip, rather than by combining the respective impairment percentages under the CVC. Following defendant's petition for reconsideration, the *Kite* panel affirmed the WCJ's decision that the "QME has appropriately determined that the impairment resulting from applicant's left and right hip injuries is most accurately combined using simple addition than by use of the combined-values formula." (*Id*. at p. 10.)

In *Vigil, supra,* we discussed the two primary ways in which the *Kite* analysis had been applied to permanent disability disputes:

> In the first approach, the CVC has been rebutted where there was evidence showing no actual overlap between the effects on ADLs as between the body parts rated. In the second approach, the CVC has also been rebutted where there is overlap, but the overlap creates a synergistic effect upon the ADLs.
>
> a. No overlap of ADLs.
>
> The first method for rebuttal of the CVC is to show that the multiple impairments, in fact, have no overlap upon the effects of the ADLs. (See e.g., *Devereux v. State Comp. Ins. Fund*, 2018 Cal.Wrk.Comp. P.D. LEXIS 592; *Guandique v. State of California*, 2019 Cal.Wrk.Comp. P.D. LEXIS 53.) We believe that one significant point of confusion on the issue of overlap is that the analysis should focus on overlapping ADLs, not body parts. Although the formula for the CVC is from the AMA Guides, the chart used to calculate the CVC is from the PDRS.

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disabilities is the CVC. (*Todd v. Subsequent Injuries Benefits Trust Fund* (2020) 85 Cal.Comp.Cases 576 (Appeals Board en banc).)

In determining whether the application of the CVC table has been rebutted in a case, an applicant must present evidence explaining what impact applicant's impairments have had upon their ADLs. Where the medical evidence demonstrates that the impact upon the ADLs overlaps, without more, an applicant has not rebutted the CVC table. Where the medical evidence demonstrates that there is effectively an absence of overlap, the CVC table is rebutted, and it need not be used.

…

b. Overlapping ADLs with a Synergistic Effect

The next method for rebutting the CVC was first discussed in *Kite*, where applicant was awarded permanent disability by adding the impairment to each hip and not by combining the impairments as ordinarily required by the PDRS under the CVC. (*Kite, supra*, 78 Cal.Comp.Cases 213.) In *Kite*, the CVC was rebutted by substantial medical evidence showing the synergistic effect of the two impairments on applicant.

'Synergy' is "(1) the interaction of two or more agents or forces so that their combined effect is greater than the sum of their individual effects; or (2) Cooperative interaction among groups … that creates an enhanced combined effect." (American Heritage Dict. (Fifth Edition, 2022).) In some cases, two impairments overlap with one another in their effect on ADLs to the extent that they amplify one another to cause further impairment than what is anticipated in the AMA Guides. Thus, it is permissible to add impairments where a synergistic amplification of ADLs is shown. For example, if applicant had an impairment in the dominant hand, an evaluator might find that the impairment impacts the ADL of non-specialized hand activities, such as being able to button a shirt. If applicant's impairment was to both hands, one might expect the ability to button a shirt to be even more difficult. The purpose of the CVC, avoiding duplication, does not apply in such cases as the impairments are not duplicative, because the two impairments together are worse than having a single impairment.

We cannot emphasize enough that to constitute substantial evidence "… a medical opinion must be framed in terms of reasonable medical probability, it must not be speculative, it must be based on pertinent facts and on an adequate examination and history, and **it must set forth reasoning in support of its conclusions**." (*Escobedo v. Marshalls* (2005) 70 Cal.Comp.Cases 604, 621 (Appeals Board en banc), (emphasis added).) The term 'synergy' is not a "magic word" that immediately rebuts the use of the CVC. Instead, a physician must set forth a reasoned analysis explaining how and why synergistic ADL overlap exists. If parties are searching for a magic word to use during a doctor's deposition, that word is "Why?". Rather than focusing on whether a specific term, including the term synergy, was used, it is imperative that parties focus on an analysis that applies critical thinking based on the principles articulated in

> *Escobedo* to support a conclusion based on the facts of the case. Such an analysis must include a detailed description of the impact of ADLs and how those ADLs interact.
>
> (*Vigil, supra*, at pp. 691–693, emphasis in original.)

We thus held in *Vigil* that where an applicant seeks to rebut the CVC, they must establish the following:

> 1. The ADLs impacted by each impairment to be added, and
>
> 2. Either:
>
> > a. The ADLs do not overlap, or
> >
> > b. The ADLs overlap in a way that increases or amplifies the impact on the overlapping ADLs.
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> (*Id*. at pp. 688–689.)

For the reasons stated in the Report, we agree that Dr. Hindocha's reports and deposition testimony as quoted in the Report rebut use of the CVC.

Finally, we address defendant's remaining arguments. Defendant first argues that the use of addition in rebuttal to the CVC is not discussed in the AMA Guides. Defendant is mistaken. Pursuant to the AMA Guides:

> The **Combined** Values Chart (p. 604) was designed to enable the physician to account for the effects of multiple impairments with a summary value. A standard formula was used to ensure that regardless of the number of impairments, the summary value would not exceed 100% of the whole person. According to the formula listed in the combined values chart, multiple impairments are combined so that the whole person impairment value is equal to or less than the sum of all the individual impairment values.
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> A scientific formula has not been established to indicate the best way to combine multiple impairments. Given the diversity of impairments and great variability inherent in combining multiple impairments, it is difficult to establish a formula that accounts for all situations. **A combination of some impairments could decrease overall functioning more than suggested by just adding the impairment ratings for the separate impairments** (eg, blindness and inability to use both hands). When other multiple impairments are combined, a less than additive approach may be more appropriate.
>
> (AMA Guides, pp. 9-10, (emphasis added).)

Next, defendant argues that the decision in *Fitzpatrick* somehow precludes application of *Vigil*. (*Department of Corrections and Rehabilitation v. Workers' Compensation Appeals Bd.* (*Fitzpatrick*) (2018), 27 Cal.App.5th 607 [83 Cal.Comp.Cases 1680].) We find no such holding in the case. We would further note that the decision in *Fitzpatrick* issued as to section 4660, which applies to injuries that occurred prior to January 1, 2013. The injury in this case occurred after January 1, 2013, and thus section 4660.1 is the applicable section. Contrary to the language of section 4660, analyzed in *Fitzpatrick*, section 4660.1 clearly states: "(g) This section does not preclude a finding of permanent total disability in accordance with Section 4662." (Lab. Code, § 4660.1(g).) While defendant appears to assert the dicta expressed in *Fitzpatrick* as applicable to section 4660 bears on the present matter which involves section 4660.1, dictum may only be persuasive authority if made by a court after careful consideration or in the course of an elaborate review of the authorities. (9 Witkin, Cal. Procedure (4th ed. 1997) Appeal, § 947, pp. 989-991). It is axiomatic that cases are not authority for propositions they did not consider or address. (*Gomez v. Superior Court* (2005) 35 Cal.4th 1125, 1153 [29 Cal. Rptr. 3d 352, 113 P.3d 41].)

In *Perales v. City of Hayward*, 2024 Cal. Wrk. Comp. P.D. LEXIS 11, the Appeals Board panel stated:

> Here, like in *Kite*, the medical evaluator has explained that because the bilateral nature of the injury would not allow the injured worker to favor one hand over the other, the two disabilities have produced a synergistic effect, and applicant's impairment is better reflected in adding rather than combining the disabilities. (citations.) The WCJ incorporating this reasoning is entirely consonant with Labor Code section 4660.1, *Guzman* and *Kite*. Although defendant argues that *Department of Corrections & Rehabilitation v. Workers' Comp. Appeals Bd. (Fitzpatrick)* (2018) 27 Cal.App.5th 607 [238 Cal. Rptr. 3d 224, 83 Cal.Comp.Cases 1680] somehow abrogated *Kite*, in *Fitzpatrick*, the Court of Appeal declined to add disabilities as a matter of law, in the absence of medical evidence supporting the proposition that adding better reflected the impairment. Unlike in *Fitzpatrick*, here the medical evaluator has provided that evidence. Nothing in *Fitzpatrick* prohibits following *Kite* when, as here, a medical evaluator has provided substantial medical evidence that adding impairments better reflects an injured worker's impairment than use of the CVC.

In *Martin v. Cox Castle & Nicholson, LLP*, 2024 Cal. Wrk. Comp. P.D. LEXIS 212, *20, the Appeals Board panel wrote:

> Finally, defendant argues that the holding in *Fitzpatrick* precludes applicant from rebutting the PDRS in this case. (*Department of Corrections & Rehabilitation v. Workers' Comp. Appeals Bd., (Fitzpatrick*), (2018) 27 Cal.App.5th 607, 238 Cal.Rptr.3d 224.). The holding in *Fitzpatrick* and multiple other cases from the Court of Appeals directly contradict defendant's argument.
>
> > The scheduled rating (or component parts of the rating) may be rebutted based on the specific circumstances of a case. (See *Ogilvie v. Workers' Comp. Appeals Bd., supra*, 197 Cal.App.4th at pp. 1266–1276; *Contra Costa County v. Workers' Comp. Appeals Bd.* (2015) 240 Cal.App.4th 746, 755–761 [193 Cal. Rptr. 3d 7]; *Milpitas Unified School Dist. v. Workers' Comp. Appeals Bd., supra*, 187 Cal.App.4th at pp. 827–829.) (Id. at 614.)

Therefore we are persuaded that the *Fitzpatrick* case is not germane to the analysis of this case.

Accordingly, we will deny defendant's Petition for Reconsideration.

For the foregoing reasons,

IT IS ORDERED that the Petition for Reconsideration is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ CRAIG L. SNELLINGS, COMMISSIONER

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

September 1, 2026

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

ROBERTO OROZCO
LAW OFFICE OF NADEEM MAKADA
HERMANSON, GUZMAN & WACHOWIAK

PAG/cm

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

Report and Recommendation on
Petition for Reconsideration and Notice of Transmission to WCAB

INTRODUCTION

Defendant seeks reconsideration of my June 4, 2026, Findings and Award and Orders (F&A&O). The substantive decision set forth therein was a finding of 71 percent permanent disability. In its petition, defendant contends my award was issued without or in excess of the appeals board powers, the evidence does not justify the Findings of Fact, and the Findings of Fact to not support the Order, Decision or Award. The petition is timely and verified. I am not aware of an answer having been filed.

FACTS

1. *Procedural background.*

This matter proceeded to trial on May 13, 2026. Applicant has an admitted industrial claim: a cumulative trauma claim from March 25, 2017, through March 25, 2020, to his left hip, right knee, and lumbar spine. Defendant stipulated there is a need for further treatment for the accepted body parts. Applicant also claims injury to the bilateral lower extremities, which are denied.

As discussed in detail below, the parties offered ten exhibits at trial. The applicant testified.

2. *Evidence at trial and decision.*

Applicant testified in relevant part:

> He worked for the employer for about nine years, since about approximately 2010. His position was a laborer. He did various types of construction.
>
> He operated various types of equipment, such as a hammer to break concrete, a jackhammer. It weighed about 90 pounds. They also used a compactor for dirt and then some lighter machines that weighed about 60 or 70 pounds. He used a pneumatic jackhammer. He used this to break up cement and concrete. He had to break it up every day, for two and a half to three hours per day. After they had broken up cement with the jackhammer, they would lift up the pieces of cement by hand and throw them in a truck. The weight of the pieces varied. He would lift over 100 pounds by himself sometimes if there was no one else to help. He had to throw the broken pieces of cement into the truck on a daily basis. He had to do excavation work. After breaking up the concrete, they would dig ditches or holes to put the pipes in where the communication cables went. These were the trenches where the pipes would go.
>
> After compacting the dirt, then came the concrete restoration work. He had to carry bags of cement. They weighed about 50 pounds. In the morning, when they

unloaded materials, they would unload the 50-pound bags from the truck. He did the finishing work to make it smooth so no one tripped on it. Sometimes he had to carry 30 bags of cement, sometimes 50, sometimes 20. He carried the bag of concrete by throwing it over his shoulder if the pickup truck was not close. After they poured the cement, they finished it with a spatula. It took quite a bit of kneeling: they had to shape it into a square as it dried. They also had to install aerial cables. The cable came from the underground pipes and ran up a post. They had to hike up the post with a gaff or a ladder, then harness themselves up. They had to be up there for a while installing them.

The duties that made him get hurt were: he felt a pinch in his buttock when pulling fiberoptic cables on the sidewalk.

The part of his body that hurts the most is his left hip. The normal pain that he feels in his left hip is constant pain. He has to change positions when he is sitting to stabilize the pain. He takes medication. The pain is constant throughout the day. It affects his ability to walk: his left hip hurts and he has to use a cane to walk better. He cannot walk any long distances. He has to use the cane all the time. He brought it here with him. The left hip pain affects his ability to stand. He cannot be standing for a long time. After five to eight minutes of standing he has to rest. Going up and down stairs affects him – he tries not to go up and down stairs. He will hold the cane in one hand and grab the railing with the other hand and go one step at a time. When he does walk, he leans more on the right side than on the left.

Regarding his low back, he has pain in his low back. On a typical day, he feels pain in his low back, and it depends on how many times he has to bend forward. He feels pain when helping his wife with sweeping or mopping. The pain is constant. The pain affects his ability to walk: when he walks, he leans forward a bit. Since he is using the cane, it hurts. For standing, his low back does not affect him that much unless he is standing for a long time.

Regarding activities of daily living, his hip injury affects his ability to get dressed: he cannot bend over to tie his shoes or put on sucks. His wife helps him. Also, when he takes a shower, he cannot scrub anything below his knees. His back pain affects him – if he wants to tie his shoes, he has to be bent over and that is what hurts him, so he does not really do that because of the pain. To scrub himself in the shower, if he has to wash anything from his knees down, it affects him but not if he is just standing. Regarding trimming his toenails, he cannot reach. Due to the combination of his back and his hips injuries, there are things he cannot do. His wife helps him with washing his feet.

Regarding household chores, he can vacuum with the left hand because he holds his cane with his right hand, and he stands straight; he cannot bend. It is difficult to mow the lawn because he has to push the lawn mower with the left hand and hold the cane with the right hand. There are some activities he can do but they are

> complicated. But he has to do it. This is based on the combination of his back and hip injury, especially the hip.
> His sleep has been affected because sometimes he moves when he is asleep onto the injured areas and that wakes him up. Then he has a hard time getting back to sleep. This happens two to three times a night. His back starts to get tired when he is laying down for more than eight hours. He is able to sleep on his back.
>
> He has gained a lot of weight since the accident. He thinks he gained about 50 pounds since the injury. He was recommended for left hip surgery. The orthopedic surgeon said he should get hip surgery, but before he does he should lose about 70 pounds. He is trying to lose weight. He is working on it; he has lost 40 pounds so far. His priority is to lose weight and get to the target weight that the surgeon recommended. Then he will think about getting the surgery. He does not know how long it will take to lose the rest of that weight. Now losing weight is taking longer to shed those last pounds. It could take maybe four or five years, or not at all. That is also what the orthopedic surgeon told him.
>
> His injury is already older than six years. If he cannot have the surgery, basically his condition is what it is. He would like the surgery. He does not want to depend on anyone He would like to get his life back to how it was before.
>
> (May 13, 2026 MOH/SOE.)

The parties offered several exhibits at trial:

a. *QME Rommel Hindocha, D.C.*

i. *QME report dated January 28, 2021*

Joint Exhibit 2 is a QME report of Dr. Hindocha dated January 28, 2021. In his report, Dr. Hindocha stated, "this is a gradual injury, which occurred over a period of time." He noted applicant:

> Initially felt symptoms in his left gluteal region sometime in May of 2017. He reported that symptoms worsened in his left hip area sometime in 2018, which caused him to walk with a pronounced limp. As such, the patient purchased a cane/walking stick sometime at the beginning of 2019. The patient reported that when he utilized his cane/walking stick to assist him with ambulation, his posture was more forward-leaning and, as such, he was bent at the waist when walking, and he developed onset of low back pian…The patient started developing symptoms in his right elbow and shoulder sometime in October/November of 2020 as a result of putting weight on his walking stick with his right upper extremity due to the pain in both his left hip and his right knee.
> (pp. 2-3.)

Dr. Hindocha reviewed medical records, summarized histories, took an account of current complaints, noted impacted ADLs, and conducted a physical examination of the applicant. His "diagnostic impression" included:

- Right-sided shoulder strain
- Right-sided lateral epicondylitis
- Right-sided forearm strain
- Low back pain
- Left-sided hip joint pain
- Right-sided knee joint pain

He stated applicant's condition was not yet P&S. He found applicant's left-sided hip complaints, low back complaints, right knee, right elbow are industrial in nature, with the low back, right knee and right elbow injuries being compensable consequences.

He assigned work restrictions and found applicant was in need of further medical treatment.

ii. QME report dated August 13, 2025

Joint Exhibit 1 is a QME report of Dr. Hindocha dated August 13, 2025. In his report, he reviewed additional medical records and history of prior injuries. He noted a report detailing the MRI results of applicant's left hip, "which demonstrated avascular necrosis and a labral tear." (p. 7.) Dr. Hindocha made the following updated diagnoses:

- Right-sided elbow triceps tendonitis, resolved
- Lumbar strain, chronic
- Left-sided hip joint avascular necrosis (MRI confirmed)
- Left-sided labral tear (MRI confirmed)
- Left-sided severe osteoarthritis with underlying femoral neck fracture
- Right-sided knee joint pain

Regarding causation, he stated that, following the left hip injury, "subsequently, the applicant reported compensatory symptoms in his lumbar spine due to altered and forward leaning gait. Symptoms in his right knee [are] due to offloading weight from his left lower extremity." (p. 16.)

Dr. Hindocha found applicant's conditions had reached MMI status. He assigned the following WPIs:

- Lumbar spine, DRE II: 8%

- Right knee: 0%
- Left hip (gait derangement): 30%
- Left hip (arthritis): 20%
- Left hip (ROM): 12%

Dr. Hindocha then stated that "an Almaraz/Guzman rating can be considered and provided based on a more accurate functional impairment/disability." "The applicant requires his cane, a table, a piece of furniture, etc. to change positions…Table 13-15 Criteria for rating Impairments of Station, Gait, and Movement Disorders. 'Cannot stand without help, mechanical support, and/or an assistive device' which equates to a 40%-60% WPI.'" He assigned a 40% WPI.

Dr. Hindocha stated it would be reasonable to add the following impairments: lumbar spine and bilateral lower extremities. He explained: The lumbar spine bears the weight of the upper body, including the head, neck, and trunk. It allows for a wide range of motion…These are essential for everyday activities like walking, bending forward, and twisting. He outlined multiple ADLs with which applicant has difficulty or cannot perform: washing dishes, bending/leaning forward at the waist, vacuuming, pushing heavy items, putting on socks, picking up items from ground level, walking, sitting on high/low chairs, sitting, standing, going to the bathroom, going up/down stairs and inclines, walking on uneven ground, getting up from a seated position, stooping, kneeling, squatting. Therefore, he concluded:

> The ADL limitations in the lumbar spine would add to the burden of the ADL limitations in the bilateral lower extremities and vice versa. It would be logical to conclude that someone who has multiple function/ADL limitations in multiple body parts would be more disabled than someone who has overlapping functional/ADL limitations or fewer involved body parts. It would therefore be reasonable to add the following impairments/ disabilities: lumbar spine and bilateral lower extremities.
> (p. 24.)

Regarding apportionment, he found 80% of the left hip impairment was industrial, and 100% of the lumbar spine and right knee impairments were industrial. He explained "taking into account [applicant's] prior employment for approximately 16-24 months with four prior employers performing same/similar type of work, his underlying cam type of femoral head, this examiner apportions approximately 20% of the applicant's permanent disability to other factors including a cam type of femoral head and left hip osteoarthritis." (p. 27.)

iii. Deposition transcripts of QME Dr. Hindocha

Joint Exhibits 5, 4, and 3 are deposition transcripts of QME Dr. Hindocha dated April 21, 2021, March 6, 2026, and April 22, 2026, respectively.

Dr. Hindocha testified in relevant part:

> - While there is a possibility of degeneration, there is nothing in the prior medical records indicating that nonindustrial factors contributed to the hip injury
>
> - If the hip impairment would have some apportionment because of obesity, then both hips joints would be affected, not just his left

"So with regard to the left hip, we've got walking, standing, sitting, going up and down stairs, walking on uneven ground. You know, you would probably put squatting in there. You know, with the right knee, again, you've got stooping, walking, probably some squatting. There are different things. The lumbar spine essentially holds up the upper body, whereas, you know, anything below that is responsible for ambulation, standing, squatting, kneeling, et cetera. You know, if he had no lumbar spine issue, you know, it's conceivable that maybe he would not have as much difficulty with doing tasks at lower levels because he could compensate by bending forward at the waist. But other than that, I don't think it would affect -- I don't think he would be able to compensate with his lumbar spine for his left hip and his right knee injuries. I think it would be very little." (Joint Exhibit 3, p. 21.)

b. Decision

I issued my F&A&O and Opinion on Decision on June 4, 2026. I found applicant's permanent disability to be 71% based on the reporting and deposition testimony of QME Rommel Hindocha, D.C., and awarded such. I also awarded attorney's fees. Further, I found applicant had not met his burden of proof as to industrial causation regarding the bilateral lower extremities.

3. Contentions on reconsideration.

In its petition for reconsideration, defendant contends this WCJ erred in relying on the reporting of QME Dr. Hindocha in his application of Vigil to applicant's impairment ratings because, defendant argues, it was not based on substantial medical evidence. Defendant contends that the combined values chart (CVC) should be utilized instead to determine applicant's permanent disability.

DISCUSSION

With respect to permanent disability, the applicant holds the burden of proof by a preponderance of the evidence. (Labor Code section 3202.5.)

Although the preferred method of combining impairments is using the Combined Values Chart ("CVC"), the impairments may be added if it is a more accurate reflection of the overall impairment because of the synergistic effect of the impairments. (Athens Administrators vs. Workers' Comp. Appeals Bd. (Kite) (2013) 78 Cal. Comp. Cases 213). In order to rebut the CVC, the applicant should establish the impact of each impairment on his activities of daily living ("ADLs") and that either there is no overlap between the effects on those ADLs for the rated body parts or there is overlap but it increases or amplifies the impact on the overlapping ADLs. (Vigil v. County of Kern, (2024) 89 Cal. Comp. Cases 686 (en banc.))

Dr. Hindocha stated it would be reasonable to add the following impairments: lumbar spine and bilateral lower extremities. He explained: The lumbar spine bears the weight of the upper body, including the head, neck, and trunk. It allows for a wide range of motion…These are essential for everyday activities like walking, bending forward, and twisting. He outlined multiple ADLs with which applicant has difficult or cannot perform: washing dishes, bending/leaning forward at the waist, vacuuming, pushing heavy items, putting on socks, picking up items from ground level, walking, sitting on high/low chairs, sitting, standing, going to the bathroom, going up/down stairs and inclines, walking on uneven ground, getting up from a seated position, stooping, kneeling, squatting. Therefore, he concluded:

> The ADL limitations in the lumbar spine would add to the burden of the ADL limitations in the bilateral lower extremities and vice versa. It would be logical to conclude that someone who has multiple function/ADL limitations in multiple body parts would be more disabled than someone who has overlapping functional/ADL limitations or fewer involved body parts. It would therefore be reasonable to add the following impairments/ disabilities: lumbar spine and bilateral lower extremities.
> (p. 24.)

In his deposition testimony, Dr. Hindocha outlined the numerous ADLs impacted by each impairment (Joint Exhibits 3, 4, 5.). I found his testimony on this issue to be substantial and persuasive. The applicant testified at length regarding the manner in which his impairments impact his ADLs. Dr. Hindocha's reporting and testimony are unrebutted. I therefore found the CVC has been rebutted, and the impairments should be added.

After apportionment, I found the following ratings:

- Left hip: 80% - (13.08.00.00 - 401 - [1.4] 56 - 480H - 62 - 66%) 53%

- Lumbar spine: DRE II: (15.03.01.00 - 8 - [1.4] 11 - 480I - 16 - 18%) 18%

- Right knee: 0%

53% + 18% = 71%

Therefore, applicant's permanent disability is rated at **71%.**

RECOMMENDATION

For the foregoing reasons, I recommend that defendant's Petition for Reconsideration, filed herein on June 24, 2026, be denied. This matter is being transmitted to the Appeals Board on the service date indicated below my signature.

Hillary R. Allyn
Workers' Compensation Judge
Workers' Compensation Appeals Board