

STATE OF CALIFORNIA
Division of Workers' Compensation
Workers' Compensation Appeals Board

[REDACTED]
Applicant,

vs.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
Defendants.

Case No. [REDACTED]

JOINT FINDINGS AND ORDER

RECEIVED

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MAIL CENTER
Floyd Skeren Manukian Langevin, LLP

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

The above entitled matter having been heard and regularly submitted, the Honorable Elisha Landman, Workers' Compensation Administrative Law Judge, finds and orders as follows:

JOINT FINDINGS OF FACT

1. Manuel De Jesus Galdamez Vasquez, born December 24, 1966, while employed as a riveter, Occupational Group Number 380, at Los Angeles, California by Jan Al Innerprizes: on June 16, 2016 did not sustain injury arising out of and in the course of his employment to his brain in the form of a stroke, eye, left arm,

nervous system, or internal in the form of hypertension; and, during the period of January 1, 2001 through June 16, 2016 did not sustain injury arising out of and in the course of employment to his neck, bilateral upper extremities, back, bilateral shoulders, bilateral arms, bilateral wrists, bilateral hands, all fingers, bilateral knees, both eyes, internal in the form of hypertension, or inguinal area/hernia.

2. All other issues are moot.

JOINT ORDER

IT IS ORDERED that Applicant TAKE NOTHING.

DATED: 11/7/2022

[REDACTED]
[REDACTED]
[REDACTED]
WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE

[REDACTED]
[REDACTED]

vs.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

WORKERS' COMPENSATION JUDGE:

[REDACTED]

DATE OF INJURY:

[REDACTED]

DATE: November 7, 2022

JOINT OPINION ON DECISION

INJURY AOE/COE

The only evidence submitted in support of the Applicant's claim for injury arising out of and in the course of his employment are the treating physician reports from Darrell Burstein, M.D. Applicant's 1-6. Dr. Burstein's findings relate solely to the applicant's claims for internal in the form of hypertension, and brain in the form of stroke on an industrial basis. No evidence whatsoever has been submitted in an attempt to establish that Applicant sustained injury arising out of and in the course of his employment to his eye, left arm, nervous system, neck, bilateral upper extremities, back, bilateral shoulders, bilateral arms, bilateral wrists, bilateral hands, all fingers, bilateral knees, both eyes, or inguinal area/hernia whether it be due on a specific or cumulative trauma basis.

The Darrell Burstein, M.D. reporting is not substantial medical evidence as it is based upon a false and/or inaccurate medical history and improper conclusion. As such, the applicant's alleged claims for industrial injury are unsupported as to the claims for internal in the form of hypertension, and brain in the form of stroke. Specifically, Dr. Burstein opines that the Applicant's "[failure] to obtain treatment for his hypertension for prolonged periods of time" is nonindustrial. Applicant's 1 at 22.

Dr. Burstein then seemingly changes his opinion and posits that the Applicant "worked under conditions of severe emotional stress and tension throughout his employment ... which aggravated and accelerated his hypertension and hypertensive cerebrovascular disease with hypertensive crisis and intracranial hemorrhage at work

on 6/16/16." *Id.*, at 23. Such allegations of "severe emotional stress and tension throughout his employment" are not supported by the testimony given at trial; either by the Applicant himself or the employer witness. See Minutes of Hearing and Summary of Evidence 6/2/2021, 4/6/2022, 8/16/2022, and 8/17/2022. Although the Applicant did offer credible testimony that he felt stress and pressure to produce, and that he felt anxiety due to the deadlines and job responsibilities, he also credibly testified that he did not ever tell his doctors of same; at no point during the Applicant's credible testimony did his alleged industrial stress appear, in this WCJ's opinion, to rise to the level of being "severe emotional stress and tension throughout his employment."

Even if the Applicant was found to have sustained "severe emotional stress and tension throughout his employment," Dr. Burstein fails to provide a reasonable and supported medical basis that such industrial stress was the cause of the Applicant's hemorrhagic (and not ischemic) stroke and not as a result of the conceded nonindustrial failure to obtain treatment for his hypertension for prolonged periods of time. As such, Dr. Burstein's medical opinions in this case are worthless as medical evidence.

The CT of the Brain taken at White Memorial Medical Center on the date of the subject incident evidences that the Applicant sustained a hemorrhagic stroke and not an ischemic stroke. Applicant's 9 at Bates Stamped 29 and 30.

Applicant was also seen by PQME Mohinder Sohal, M.D. in this case. In his two reports and two cross-examinations his ultimate opinion was that the Applicant suffered the natural progression of nonindustrial condition or disease (his systemic hypertension) and that the Applicant would have had his current level of disability even in the absence of his employment. Parties' Joint W, X, Y, and Z.

Therefore, in consideration of the lack of substantial medical evidence supporting a finding of industrial injury, it is found that Applicant did not sustain either of the pled injuries while working at Jan Al Innerprizes.

DATED: 11/7/2022



WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE