

State of California
DIVISION OF WORKERS' COMPENSATION – MEDICAL UNIT

AME or QME Declaration of Service of Medical - Legal Report (Lab. Code § 4062.3(i))

Case Name: **BARDAKJIAN, STEEVIO** v **Olive View Medical Center**
(employee name) (claims administrator name, or if none employer)
Claim No.: **219-00110-B** EAMS or WCAB Case No. (if any): **ADJ11540526**

I, Daniela Q., declare:
(Print Name)

1. I am over the age of 18 and not a party to this action.
2. My business address is: 13113 Hadley St. Whittier, CA 90601
3. On the date shown below, I served the attached original, or a true and correct copy of the original, comprehensive medical-legal report on each person or firm named below, by placing it in a sealed envelope, addressed to the person or firm named below, and by:
 - A depositing the sealed envelope with the U. S. Postal Service with the postage fully prepaid.
 - B placing the sealed envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the U. S. Postal Service in a sealed envelope with postage fully prepaid.
 - C placing the sealed envelope for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
 - D placing the sealed envelope for pick up by a professional messenger service for service. (*Messenger must return to you a completed declaration of personal service.*)
 - E personally delivering the sealed envelope to the person or firm named below at the address shown below.

Means of service:
(For each addressee,
enter A – E as appropriate)

<u>B</u>	<u>03/15/21</u>	<u>Matian Law Group Post Office Box 261670 Encino, CA 91426</u>
<u>B</u>	<u>03/15/21</u>	<u>Lewis Brisbois Bisgaard, & Smith, LLP 633 West 5th Street, Suite 4000 Los Angeles, California 90071</u>
<u>B</u>	<u>03/15/21</u>	<u>Tristar Risk Management Post Office Box 7052 Pasadena, California 91109</u>

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Date: March 15, 2021

Daniela Q.
(signature of declarant)

Daniela Q.
(print name)

LEE C. WOODS, M.D., P.C.
Diplomate, American Board of Orthopaedic Surgery
Fellow, American Academy of Orthopaedic Surgeons

October 5, 2020

Lewis Brisbois Bisgaard, & Smith, LLP
633 West 5th Street, Suite 4000
Los Angeles, California 90071

Attention: Will McHenry
Attorney at Law

Kozdin, Fields, Sherry & Katz
6151 Van Nuys Blvd.
Van Nuys, California 91401

Attention: Robert A. Katz
Attorney at Law

AGREED MEDICAL RE-EVALUATION

RE: **BARDAKJIAN, STEEVIO**
D/I: 07/03/2018
EMP: Olive View Medical Center
CLAIM #: 219-00110-B
WCAB #: ADJ11540526

To All Parties Involved:

I, the undersigned, examined Mr. Steevio Bardakjian in my capacity as an Agreed Medical Evaluator. I examined Mr. Bardakjian in my Whittier, California office today, October 5, 2020. My evaluation addressed this patient's orthopaedic complaints. The undersigned previously examined Mr. Bardakjian on October 25, 2019. The complexity factors of this report include an extensive review of **voluminous medical record**, requiring 3 hours for review, **direct face-to-face time** of 1 hour. Physician dictation and editing time spent in preparation of this medical-legal report was 2-1/2 hours. Medical research was 3 1/2 hours.

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OCCUPATIONAL DESCRIPTION AND WORK HISTORY WITH OLIVE VIEW MEDICAL CENTER

Mr. Bardakjian informed the undersigned that his occupational title at the time of the injury was that of Nurse Manager. Mr. Bardakjian related that his occupational duties as Nurse Manager involved performing clinical project manager duties in the IT department, which entailed overseeing staff and projects, mostly administrative, attending to meetings, answering the telephone and emails, data entry/computer work, and driving twice a week for meetings.

Mr. Bardakjian stated that in an eight-hour workday, he would reach, twist, bend, squat, crawl, kneel, and lift up to one-third of the day, sit, stand, walk, grip up to two-thirds of the day, type up to more than two-thirds of the day. The lifting requirements were 10-50 lbs. The work surface consisted of cement, tile, and carpet.

Mr. Bardakjian commenced employment with Olive View Medical Center in July 1999. A pre-employment physical examination was performed. Radiographs were not taken. Mr. Bardakjian commenced employment with no restrictions imposed.

INTERIM MEDICAL HISTORY

Mr. Bardakjian is a 50-year-old male Nurse Manager employed by the Los Angeles County Department of Health Services/Olive View Medical Center who was previously examined by the undersigned on October 25, 2019. Mr. Bardakjian reports he has not experienced any new or further injuries since his previous examination.

At the examination of October 25, 2019, it was determined by the undersigned that Mr. Bardakjian had not achieved a permanent and stationary status. It was recommended that Mr. Bardakjian undergo an evaluation with a subspecialty spine specialist in reference to his lumbar spine. It was also recommended that he undergo an MRI of the right knee.

Since his previous evaluation on October 25, 2019, Mr. Bardakjian underwent the recommended MRI of his right knee in April 2020. He has been treating with Dr. Conwiser, who reportedly recommended that he undergo right knee surgery. However, the insurance carrier reportedly has not authorized the surgery.

Mr. Bardakjian has not undergone the recommended spine specialist consultation recommended by the undersigned. He has continued treating with Dr. Cohan for pain medication management.

OFF WORK ACTIVITIES

Mr. Bardakjian stated that since prior examination he has engaged in sedentary activities only. He denies participating in activities such as minor car repair, hunting, horseback riding, walking, housework, skiing, fishing, golfing, gardening, tennis, bowling, or running.

PRESENT COMPLAINTS

In reference to his lumbar spine, Mr. Bardakjian complains of constant dull, throbbing, and sharp pain, and shooting pain down the right leg accompanied by numbness and tingling. He states he is now also experiencing intermittent weakness, numbness, and tingling of the left leg. He is now experiencing cramping of the calves and toes, right worse than left. Symptoms are aggravated with laying down, any movements, any prolonged activities.

In reference to his right knee, Mr. Bardakjian complains of constant dull, cramping, and sharp shooting pain with a feeling of pressure, accompanied by popping, swelling, and weakness. The symptoms increase with all activities.

ACTIVITIES OF DAILY LIVING

Mr. Bardakjian states that his pain interferes with his ability to walk one block, lift more than ten pounds, sit or stand for half an hour, travel up to one hour by car, type or write and get enough sleep to a severe degree.

Mr. Bardakjian states that he must limit his activities to a severe degree in order to prevent his pain from getting worse.

Mr. Bardakjian states that his pain interferes with his ability to participate in social activities to a severe degree, stating that it is impossible for him to engage in any social walking activities with his family.

Mr. Bardakjian states that his pain interferes with his daily activities to a severe degree including difficulties bathing, twisting to get out of bed, cleaning his house, standing to wash dishes, mopping, cooking, bending down, and wiping cabinets.

Mr. Bardakjian states that his pain interferes with his interpersonal relationship to a severe degree, stating that he is unable to engage in intimate physical activity and is unable to attend family activities. He states that he and his significant other now sleep in different bedrooms because he would constantly toss and move throughout the night. He also states that he and his family have not had a vacation since his injury in July of 2018.

Mr. Bardakjian states that his pain interferes with his ability to do jobs in the home to a severe degree including difficulties standing to wash the dishes, mopping the floor, reaching cabinets, scrubbing the toilets and bending down to move items in the garage.

Mr. Bardakjian states that his pain interferes with his ability to shower and bathe to a severe degree, stating that he has to take his pain medication before bathing otherwise he requires assistance. He also states that it is very painful to twist to wash his back and shoulders and that he needs to sit down in order to fully bathe himself.

Mr. Bardakjian states that his pain interferes with his ability to dress himself to a severe degree including having difficulties bending over to put on socks or shoes. He states that he must lay down on his bed in order to put his pants on and that is it very painful to bend his right knee.

Mr. Bardakjian states that his pain interferes with his sexual activities to a severe degree, stating that he and his partner do not engage in any sexual activities anymore.

Mr. Bardakjian states that his pain interferes with his ability to concentrate to a severe degree, stating that it is almost impossible to concentrate and be an efficient employee while he is in severe pain. He states that he must constantly reposition himself, ensure he takes his pain medication and practice relaxation techniques in order to remain somewhat focused.

REVIEW OF RECORDS

Submitted for review is $\frac{1}{2}$ -inch of the following records:

- Edwin Haronian, M.D.;
- Kevin Kohan, M.D.;
- Philip Conwisar, M.D.;
- Total Imaging MRI.

Pertinent reports are reviewed as follows:

08/21/19: PR-2 Report, Philip H. Conwisar, M.D. DOI: 02/14/19. Mr. Steevio Bardakjian is employed by Olive View Medical Center as a RN IT Project Manager. Patient was under the care of Dr. Kevin Kohan for pain management. Patient had persistent severe low back pain despite surgery 10 months ago by his prior treating spine surgeon. LUMBAR SPINE EXAM: There was a healed incision over the lumbar spine. Patient's gait was antalgic with a limp on the right. He was using a cane. Patient stands with a flattened lumbar lordosis. There was slight tenderness in the lumbar paravertebral muscles. Range of motion of the lumbar spine demonstrated flexion to 40 degrees, extension zero degrees, right lateral bending 10 degrees and left lateral bending 05 degrees, all with increased low back pain. SLR was to 30 degrees on the right with pain in the lower back region, and 60 degrees on the left without low back pain. Motor testing was 4+/5 with right knee extension, right ankle dorsiflexion and right great toe extension. Sensation was decreased at L4 and L5 on the right. Reviewed was electrodiagnostic studies of the lower extremities dated 06/21/19, the MRI's of the lumbar spine dated 07/10/18 and 11/08/18. PLAN: L/ESI at L4-5 on the right by Dr. Kohan; f/u in six weeks. DIAGNOSES: 1) S/P lumbar spine surgery, apparently hemilaminotomy/microdiscectomy L3-4, L4-5. 2) Recurrent disc herniation, L4-5. 3) Lumbar radiculopathy. WORK STATUS: Modified duty with restriction from repetitive bending, stooping, pushing, pulling lifting over 10 pounds; no weight bearing more than 30 minutes per hour; telecommute 25% of the time.

08/21/19: PR-2 Report, Dr. Conwisar. Mr. Steevio Bardakjian had a L/ESI two weeks ago that helped for a few days he was one year postop lumbar spine surgery performed by the prior treating spine physician. CURRENT COMPLAINTS: persistent

severe low back pain. Patient was doing poorly. Exam of the lumbar spine was unchanged. PLAN: spine surgical consultation with Dr. Edwin Haronian; additional lumbar spine surgery; updated MRI of the lumbar spine with IV gadolinium; f/u in six weeks. WORK STATUS: continue working with the same work restrictions.

09/03/19: Pain Management PR-2 Report, Kevin Kohan, M.D. Universal Pain Management. DOI: 07/03/18, Olive View Medical Center. F/U low back pain and right leg pain. Mr. Bardakjian stated that the epidural injection gave him approximately five days of pain relief. He was taking Percocet up to three times a day which allowed him to work and got 30% improvement of function ability to do his ADLs and work full time. ROS: numbness; sweats; weakness. EXAM: There was a scar on the lumbar spine. SLR was positive on the right. There was pain on palpation of the lumbar facet on both sides of the L3-S1 region. There was palpable twitch positive trigger points in the lumbar paraspinous musculature. Anterior lumbar flexion caused pain. There was pain with lumbar extension. Motor strength noted weakness at the right L3-4 and L4-5 regions. Sensation was decreased on the right side at L3-4 and L4-5. DTRs was 1+ of the right knee. There was pain with right hip motion. There was tenderness of the lumbar spine. CURES report was obtained and showed no evidence of doctor shopping. PLAN: F/u with neurosurgeon; continue Percocet. WORK STATUS: Per PTP.

10/08/19: Pain Management PR-2 Report, Kevin Kohan, M.D. CURRENT COMPLAINTS: constant low back and right leg pain. PLAN: Urine drug test; continue Percocet. WORK STATUS: Per PTP.

10/10/19: PR-2 Report, Dr. Conwisar. The recommended second opinion surgical consultation was authorized. CURRENT COMPLAINTS: severe low back pain radiating the lower extremities. Exam of the lumbar spine was unchanged. PLAN: Spine surgery consult. WORK STATUS: No changes.

11/04/19: Pain Management PR-2 Report, Kevin Kohan, M.D. Patient continued to experience constant low back and right leg pain. PLAN: F/U with neurosurgeon/spine surgeon; continue Percocet. WORK STATUS: Per PTP.

11/07/19: Secondary Treating Physician's Initial Orthopedic Evaluation, Edwin Haronian, M.D. and Nicholas Cascone, PA-

C. DOI: 07/03/18. Mr. Bardakjian began employment with Olive View Medical Center as an RN IT Project Manager in 1999. He worked 1 hours a day, four days a week. At the time of his injuries, he performed general office and administrative duties, driving to meetings, operating a computer, creating reports, typing, entering data and managing projects. He was currently working with restrictions.

HISTORY OF INJURY: On 07/04/18, Mr. Bardakjian was working under a desk. As he came back to a standing position, he felt a snapping sensation in his lower back that was followed by sharp pain. He reported the injury to his supervisor. On 07/08/18, he was seen at Henry Mayo Hospital ER where he was provided and prescribed pain medications. He had MRI studies done. Thereafter, he was seen at Facey Medical Group per his employer. After that, he was seen by Dr. Barcohana, orthopedic surgeon. Dr. Barcohana indicated patient needed emergency surgery that was performed on 08/04/18 which consisted of a discectomy. He had postop physical therapy and aquatic therapy. Since 2019, he has been under the care of Dr. Conwisar. MRI studies were obtained. Pain medications, acupuncture, physical therapy and chiropractic treatment was prescribed. He had a L/ESI in September 2019 with two to three days of pain relief. He was working with restrictions since April 2019. He was seen by the undersigned for a "QME" a week prior to 11/07/19.

CURRENT COMPLAINTS: constant low back pain that varied in degree, with pain, numbness and tingling radiating to the right leg, aggravated by coughing and sneezing, with pain increasing with prolonged standing, walking and sitting; difficulty sleeping due to pain and discomfort. Pain meds and rest temporarily relieved his pain.

MEDICAL HX: Type II diabetes. PSH: Lumbar laminectomy. MEDS: Glucophage; Percocet. EXAM: Height 5'11". Weight 215 lbs. Patient had a slow, antalgic gait. He was using a cane. There was tenderness and spasm in the paravertebral musculature of the lumbar spine. Heel and toe walking caused pain. Squatting also caused pain. Electric inclinometer report used for ROM was not provided in the submitted records. SLR was to 40 degrees on the right with right L5 pain. DTR's was reduced at the right knee. Sensation was decreased at L5 lateral leg and mid foot with pain. Range of motion of the hips was WNL with pain on the right.

X-rays of the lumbar spine was obtained showing no fracture, dislocation or other abnormality. There was bridging lateral osteophytes noted especially at L2-3. The lateral views showed calcification, duplication in the anterior

longitudinal ligament throughout the lower thoracic and lumbar spine from T11 through S1, with bridging osteophytes. X-rays of the right hip was obtained which revealed evidence of avascular necrosis with alteration of the cortical bone at the femoral head. There was mild osteoarthritic changes. Reviewed was the MRI's of the L/S dated 07/10/18 and 11/08/18, as well as neurodiagnostics of the lower extremities dated 06/20/19. DIAGNOSIS: lumbosacral radiculopathy S/P hemilaminectomy. PLAN: Obtain all prior records and diagnostic studies; fusion of some type was warranted mostly to the L4-5 level; medications were deferred to pain management; MRI of the right hip. WORK STATUS: Per PTP.

11/22/19: PR-2 Report, Dr. Conwisar. CURRENT COMPLAINTS: low back pain radiating to the right lower extremity. Patient was evaluated by Dr. Haronian. Exam of the lumbar spine was essentially unchanged. Exam of the bilateral hips revealed restricted ROM of the right hip with slight pain on ROM. DISCUSSION: Dr. Haronian obtained an XR of the right hip which showed findings consistent with avascular necrosis. PLAN: X-rays of the right hip to R/O the right hip as a source of his persistent pain; f/u in six weeks. Work Status: No changes.

12/02/19: Pain Management PR-2 Report, Kevin Kohan, M.D. Patient continued with low back and right leg pain. PLAN: Right hip joint injection intraarticular as XRs were consistent with degenerative changes of the hip; Percocet. WORK STATUS: TTD.

12/05/19: Secondary Treating Physician's Report, Dr. Haronian and Michael Nadzhafov, PAC, MPH. CURRENT COMPLAINTS: Low back pain radiating to the RLE. Right hip XRs noted AVN. According to the patient, his PTP, Dr. Conwisar expressed doubts in regard to this finding. Dr. Haronian reviewed the MRI of the low back that was on a CD and was brought in by the patient. RECOMMENDATION: Posterior lumbar arthrodesis of L4-5; possible consideration of a spinal cord stimulator by pain management physician as the patient's dominant complaint was pain in the RLE; MRI of the right hip. Patient did not need a follow up appointment with Dr. Haronian.

2020 RECORDS

01/07/2020: Pain Management PR-2 Report, Kevin Kohan, M.D. patient continued with low back and right leg pain. PLAN: **Patient's knee was apparently part of his case and the patient was interested in further imaging** Patient wanted to discuss findings of the lumbar spine with orthopedic surgeon. The hip joint injection was approved but patient wanted to hold off on any intervention He was to continue taking Percocet. WORK STATUS: Per PTP.

02/04/2020: Pain Management PR-2 Report, Kevin Kohan, M.D. Patient was awaiting for an MRI and potential surgical intervention by orthopedic surgeon. Treatment plan was unchanged. WORK STATUS: Per PTP.

02/26/2020: PR-2 Report, Dr. Conwisar. CURRENT COMPLAINTS: persistent low back pain radiating to the right lower extremity with paresthesias; **persistent right knee pain. He injured his right knee a few days after the lumbar spine surgery when he fell down due to low back pain. He twisted his right knee and had no treatment.** Exam of the lumbar spine and hips was unchanged. Exam of the bilateral knees revealed small effusion of the right knee. ROM of the right knee was 0 to 130 degrees and left knee was 0 to 140 degrees. There was medial joint line tenderness of the right knee. McMurray's test was positive on the right. X-rays of the right hip and pelvis taken on 11/25/19 showed very mild degenerative joint disease of the right hip. The joint space was preserved and measured 4 mm. Reviewed was the Orthopedic Evaluation dated 11/07/19 by Edwin Haronian, M.D., and the AME report dated 10/25/19 by the undersigned. DIAGNOSES: 1) S/P lumbar spine surgery, apparently hemilaminotomy/microdiscectomy L3-4, L4-5. 2) Recurrent disc herniation, L4-5. 3) L4-5 lumbar radiculopathy. 4) Internal derangement, right knee. DISCUSSION: Patient was seen by Dr. Haronian who recommended a fusion. Patient wanted a second opinion. Patient also had right knee pain since a fall that occurred soon after the lumbar spine surgery. Dr. Conwisar opined that the right knee was a compensable consequence injury of the lumbar spine injury. Patient had findings of internal/mechanical derangement and medial meniscus tear. Dr. Conwisar indicated that the AME by the undersigned agreed that patient was not Permanent and Stationary or at MMI. The undersigned recommended spine surgical consultation and an MRI of the right knee. PLAN: Second opinion spine surgical consultation with Dr. Patrick Johnson at Cedars Sinai; updated MRI scan of the lumbar

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spine with IV gadolinium; MRI scan of the right knee; f/u in six weeks. WORK STATUS: No changes.

03/31/2020: Pain Management PR-2 Report, Kevin Kohan, M.D. Patient was seen via telemedicine audio and visual for approximately 15 minutes. CURRENT COMPLAINTS: low back pain controlled with Percocet. The elective surgery was on hold. PLAN: No changes. Percocet and Vistaril was prescribed. WORK STATUS: Per PTP.

04/13/2020: PR-2 Report, Dr. Conwisar. Patient was evaluated via telemedicine due to COVID-19 outbreak. CURRENT COMPLAINTS: Persistent low back pain radiating to the RLE with paresthesias; right knee pain. Treatment plan was unchanged. WORK STATUS: No changes.

05/04/2020: Pain Management PR-2 Report, Kevin Kohan, M.D. Patient was seen via telemedicine audio and visual. Patient continued to experience low back pain. No changes in treatment plan.

05/28/2020: MRI scan of the right knee without contrast, Norma Pennington, M.D. Total Imaging & Open MRI. Referral by Dr. Philip Conwisar. Hx: Injured at work. FINDINGS: There was an oblique tear of the posterior horn of the medial meniscus. There was small knee joint effusion. A Baker's cyst was observed.

06/01/2020: Pain Management PR-2 Report, Kevin Kohan, M.D. Patient was seen via telemedicine audio and visual. Patient had an MRI of his right knee done a few days ago. CURRENT COMPLAINTS: low back and right lower extremity pain, unchanged. PLAN: Obtain MRI images of the knee that was done; MRI of the lumbar spine; Percocet; Vistaril. WORK STATUS: Per PTP.

06/11/2020: PR-2 Report, Dr. Conwisar. Evaluation done via telemedicine. CURRENT COMPLAINTS: persistent severe low back pain radiating to the RLE; right knee pain, swelling, catching, giving way and occasional locking. Reviewed was the MRI scan of the lumbar spine dated 06/04/2020 showing a 3 mm disc protrusion at L3-4 and a 3.8 mm disc protrusion at L4-5. There was a 1.3 mm disc protrusion at L5-S1 and L2-3. The MRI scan of the right knee dated 05/28/2020 was reviewed showing an oblique tear of the posterior horn in the medial meniscus. **PLAN: Second opinion spine surgical consultation with Dr. Patrick Johnson; right knee**

arthroscopy with partial medial meniscectomy; preop clearance; postop physical therapy; cold therapy device postop; crutches postop. WORK STATUS: No changes.

Also included in the submitted medical records are previously reviewed reports, various forms and duplicate records.

PHYSICAL EXAMINATION

Height: 5'11"
Weight: 220 lbs
BP: 198/116
Pulse: 102

General Appearance

Physical examination revealed a well-nourished, well-developed male who appeared his stated age. Mr. Bardakjian appeared comfortable during history taking. He arose however with hesitation utilizing a cane. Mr. Bardakjian required a cane throughout the examination. With independent weightbearing, Mr. Bardakjian required contact guarding of the walls. At the time of examination, Mr. Bardakjian was otherwise not wearing or using a collar, brace, or prosthetic device.

EXAMINATION OF THE BACK AND LOWER EXTREMITIES

There was no evidence of scoliosis. There was normal kyphosis, lordosis, posterosuperior iliac spine, and extremity alignment. Mr. Bardakjian ambulated with antalgia. Mr. Bardakjian had difficulty with heel walking and toe walking. He was unable to hop or squat. There was a 5 cm midline lumbar surgical scar. I found no evidence of muscle spasm. There was no evidence of swelling.

There was midline and right-sided sacral and sciatic notch tenderness. There was no tenderness of the trochanters, thighs, calves, sacrum, sacroiliac joints, coccyx, iliac crest or pain with pelvic compression.

Range of Motion

<u>Range of Motion of the Back</u>	<u>Degrees of Motion</u>	<u>Normal</u>
Flexion	15°	60°
Extension	1°	25°
Lateral Flexion - Right	3°	25°
Lateral Flexion - Left	11°	25°
Straight Leg Raising - Right	16°	No evidence of
- Left	37°	radiculopathy

Comment:

Sciatic pain generated between 30° and 70° of hip flexion is the abnormal finding interpreted as a positive straight leg raising maneuver. No such finding in this case consistent with radiculopathy (Low Back Pain; BMJ. 2004 May 8; 328 (7448): 1119-1121)

Range of Motion of the Lower Extremities

<u>Knee</u>	<u>Right</u>	<u>Left</u>	<u>Normal</u>
Flexion	98°	107°	135°
Extension	-65°	-29°	180°

Neurologic Examination

Straight leg raising (seated and supine) and Bragard's test (Lasègue's test) were positive bilaterally. Cross straight leg raising was unremarkable. Patrick's test (FABERE) was positive on the right hemipelvis. Deep tendon reflexes (patellar and Achilles) were 0/2+ and symmetric bilaterally. Babinski's sign was negative. Vibratory sensation and sensation to pinprick were normal bilaterally. There was no evidence of clonus. There was normal proprioception.

<u>Two-Point Discrimination</u>	<u>Right Foot</u>	<u>Left Foot</u>
Medial column	15 mm	15 mm
First dorsal webspace	15 mm	15 mm
Lateral column	15 mm	15 mm
Plantar	15 mm	15 mm

Waddell Test

Waddell testing was normal in all phases.

Vascular Examination

Color, temperature, differentiation, hair growth, and nail health were normal bilaterally. There were no varicosities. Pulses (dorsalis pedis, posterior tibial, popliteal, and femoral) were normal bilaterally.

Muscle Strength

Knee flexion and extension were 2+ to 3-/5 on the right and 4/5 on the left. Ankle flexion and extension were 4/5 on the right and 5/5 on the left. Subtalar inversion and eversion were 5/5 bilaterally. EHL function was 1/5 on the right and 5/5 on the left.

Knee Examination

Examination of the knees revealed soft tissue fullness and mild effusion of the right knee. There was medial, posteromedial and posterior tenderness to palpation of the right knee. Popliteal space, patellar tracking and patellar mechanism were normal bilaterally. There was no crepitus upon extension or flexion and there was no patellar grinding bilaterally.

Knee Joint Stability

Joint stability was normal in medial, lateral, anterior drawer, posterior drawer, Slocum test, anterolateral, posterolateral, Lachman test and pivot shift.

Knee Tests

Quadriceps inhibition test, patellar apprehension test, and McMurray's test were negative. Apley's grind test was positive in the right knee. Deep knee bending and duck Waddle testing could not be performed.

DISCUSSION

This is a 50-year-old male Nurse Manager employed by the Los Angeles County Department of Health Services/Olive View Medical Center who originally experienced an injury of July 3, 2018. At the prior examination recommendations were made for management including subspecialty spine consultation as well as MRI evaluation. The MRI study of May 28, 2020 revealed evidence of medial meniscus tear. Thus, Mr. Bardakjian is a candidate for arthroscopy of his right knee as was documented by his current treating physician, Philip H. Conwisar, M.D. Indeed, Dr. Conwisar has recommended a spine subspeciality consultation as well.

Mr. Bardakjian underwent a lumbar MRI of June 4, 2020 which revealed evidence of multilevel involvement including disc protrusions of L3-L4, L4-L5 and L5-S1.

PERMANENT AND STATIONARY STATUS

Mr. Bardakjian has achieved a permanent and stationary status.

OBJECTIVE FINDINGS

The objective findings of examination continue to reveal evidence of lumbar tenderness with positive straight leg raising maneuver in the right lower extremity and limb girth atrophy. There is also medial joint line tenderness of the right knee unchanged from prior examination without straight or rotatory instability.

PERMANENT IMPAIRMENT

Based upon the 5th edition of the *Guides* to the evaluation of permanent impairment, Mr. Bardakjian experiences a traditional impairment of his right knee of 4% based upon table 17-10 page 537 of the *Guides*. However, given evidence of an oblique tear of the posterior horn of his medial meniscus in conjunction with evidence of a Baker's Cyst it is the conclusion of the undersigned that the traditional interpretation does not most accurately represent the impairment of the right knee. Therefore the Almaraz Guzman decision must be imposed to address the most accurate impairment.

Despite the fact that the Almaraz/Guzman Decision has been accepted by the legislature and the WCAB, there is not infrequently great dispute regarding its implementation. Thus, in order to further explain the basis for the Decision of the undersigned, based upon the findings of examination, it is essential to understand the *Guides* characterization of the physician in terms of determining the impairment of the whole person.

The Almaraz/Guzman Decision states that: "Therefore, based upon the physician's judgment, experience, training and skill each reporting physician (treater or medical-legal evaluator) should give an expert opinion on the injured employee's WPI using the chapter, table or method assessing the impairment with the AMA *Guides* that most accurately reflects the injured employee's impairment. . ."¹

The Almaraz/Guzman Decision including the August 19, 2010 Sixth District Appellate Court Decision further states that: "Although the WPI component of the schedule rating must be found on the AMA *Guides* (except in the case of psychiatric impairments), a physician is not inescapably locked into a specific paradigm for evaluating WPI under the *Guides*." Section 4660(b)(1) provides that the WPI of the schedule rating is to be rooted in "the descriptions and measurements of physical impairments and the corresponding percentages of impairments published in the (AMA *Guides*)."^{1,2}

Therefore, section 4660(b)(1) does not mandate that the impairment for any particular condition must be assessed in any particular way under the *Guides*. Moreover: "While the AMA *Guides* often sets forth an analytical framework and methods for physicians assessing WPI, the *Guides* do not relegate a physician to the role of taking a few objective measurements and mechanically and uncritically assigning a WPI that is based on a rigid and standardized protocol and is devoid of any clinical judgment. Instead, the AMA *Guides* expressly contemplates that a physician will use his or her judgment, experience, training and skill in assessing WPI."¹

The undersigned has met this standard in reviewing the facts including consideration of both the art and science of medicine in determining the whole person impairment in this case.

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It is the conclusion of the undersigned that a more accurate impairment rating can be concluded by employing table 17.3 page 527 of the Guides and concluding that Mr. Bardakjian has lost 20% of his lower extremity function resulting in an 8% impairment of the whole person of the right knee.

In reference to his lumbar spine given evidence of multi level involvement with disc protrusions of L3-L4 through L5-S1 the Range of Motion Method applies based upon section 15.2 page 579 of the Guides and 15.8 page 398 of the Guides. Based upon table 15.7 page 404 Mr. Bardakjian experiences Type IIC lesion with 7% impairment plus 1% for each involved level resulting in 10% Whole Person Impairment. This 10% Whole person impairment is then interpolated with the 22% Whole Person Impairment for Range of Motion Based upon the Table 15-8 page 407 and Table 15-9 page 409 of the *Guides* interpolating to a 30% Whole Person Impairment.

Mr. Bardakjian should avoid activities that require repetitive bending and lifting prolonged standing and walking and lifting greater than 15 pounds.

In reference to his right knee Mr. Bardakjian should avoid activities that require prolonged standing and walking, ladder and stair climbing and squatting and kneeling.

CAUSATION AND APPORTIONMENT

As documented previously, it is the conclusion of the undersigned that Mr. Bardakjian's findings are as a result of industrial injury in reference to his lumbar spine as well as his right knee as a result of the incident of July 3, 2018.

CURRENT/FUTURE MEDICAL CARE

As the recommendations for management are unchanged from prior examination, Mr. Bardakjian is a candidate for arthroscopy of his right knee as requested by his primary treating physician, Philip Conwisar, M.D. as well as Mr. Bardakjian should undergo the spine consultation recommended by the undersigned as well as the patient's primary treating physician, Dr. Conwisar. Further management of the spine will depend upon the recommendations of the spine subspecialist.

If I can be of further assistance, please do not hesitate to contact me.

Very truly yours,



Lee C. Woods, M.D.

Diplomate,

American Board of Orthopaedic Surgery

LCW/bk/kkj

CC: Tristar Risk Management
Post Office Box 7052
Pasadena, California 91109

Attention: Regina Diaz, Claims Adjuster

Bibliography:

1. In Court of Appeal of the State of California Sixth Appellate District, Milpitas Unified School District, Petitioner versus Workers' Compensation Appeals Board and Joyce Guzman, Respondents, August 19, 2010.

2. Opinion and Decision After Reconsideration (en banc), case #ADJ1078163 (BAK0145426), Mario Almaraz, applicant versus Environmental Recovery Services (AKA Enviroserv); and State Compensation Insurance Fund, Defendant; Opinion and Decision After Reconsideration (en banc), case #ADJ3341185 (SJ00254688), Joyce Guzman, applicant, versus Milpitas Unified School District, permissibly self-insured; Keenan & Associates, adjusting agent defendant.

* Copies of specific articles included in the above referenced evidence-based literature are available upon request*

DISCLOSURE STATEMENT

I declare under penalty of perjury that the information contained in this report and its attachments, if any, is true and correct to the best of my knowledge and belief, except as to information that I have indicated I received from others. As to that information, I declare under penalty of perjury that the information accurately describes the information provided to me and, except as noted herein, that I believe it to be true.

I further declare under penalty of perjury that I personally performed the evaluation of the patient or, in the case of a supplemental report, I personally performed the cognitive services necessary to produce the report on October 5, 2020 at Whittier, CA and that, except as otherwise stated herein, the evaluation was performed and the time spent performing the evaluation was in compliance with the guidelines, if any, established by the Industrial Medical Council or the administrative director pursuant to paragraph (5) of subdivision (j) of Section 139.2 or Section 5307.6 of the California Labor Code. I further certify that any medical records reviewed in the preparation of this report were personally reviewed by myself, and may have been summarized in chronological order and/or transcribed by Marvin Brown, a certified medical-legal assistant.

I further declare under penalty of perjury that I have not violated the provision of California Labor Code 139.3 with regard to the evaluation of this patient or the preparation of this report.

I verify under penalty of perjury that the total time I spent on the following activities is true and correct:

- | | |
|--|-------------|
| a. Reviewing the records | 3 hours |
| b. Face-to-face time with patient | 1 hour |
| c. Preparation of medical-legal report
including typing and transcription | 2-1/2 hours |
| d. Total medical research | 3.5 hours |

DATE OF REPORT October 5, 2021

Signed this 15th day of March, 2021

in Los Angeles County, California.