

**Andrew G. Berman, M.D., Inc.**

*9001 Wilshire Blvd., Suite 204*

*Beverly Hills, CA 90211*

(310) 278-3223

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*Diagnostic Otorhinolaryngology, Facial Plastics & Reconstructive Plastic Surgery*

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**May 11, 2021**

Straussner Sherman  
14555 Sylvan St.  
Van Nuys, CA 91411

Attn: Ms. Julie Locks Sherman, Esquire

Patient:	Julien Oliver
Injury Date:	11/07/90-12/15/20
Claim No:	—
Examination Date:	04/16/21
WCAB Case No:	—
Employer:	County of Los Angeles Sheriff's Department

**MEDICAL-LEGAL EVALUATION  
OTORHINOLARYNGOLOGY**

Time spent includes:

- |   |                  |
|---|------------------|
| <b>1.</b> Face-to-face interview with the applicant | <b>1.00 hour</b> |
|---|------------------|

Medical records from the (applicant/defense) were not available for review. This may be because they were not sent or because they were sent but were not accompanied by a required declaration. The new medical legal fee schedule, which went into effect on April 1, 2021, requires that all medical records submitted be accompanied by a declaration.

Per 8 CCR 9793(n),

"Any documents sent to the physician for record review must be accompanied by a declaration under penalty of perjury that the provider of the documents has complied with the provisions of Labor Code section 4062.3 before providing the documents to the physician. The declaration must also contain an attestation as to the total page count of the documents provided. A physician may not bill for review of documents that are not provided with this accompanying required declaration from the document provider. Any documents or records that are sent to the physician without the required declaration and attestation shall not be considered available to the physician or received by the physician for purposes of any regulatory or statutory duty of the physician regarding records and report writing."

Accordingly, if no declaration was received from a submitting party then the accompanying documents or records were not considered available and therefore were not reviewed.

Dear Ms. Sherman:

On April 16, 2021, Mr. Olivier was seen per your request for a Comprehensive Medical-Legal Evaluation. The purpose of this visit was to evaluate his hearing loss and ringing in his ears, and to determine the causes(s) of these otic difficulties.

Please find attached my office notes from this exam. I will also discuss his test results, along with associated issues of future care, permanent and stationary status, impairment, causation and apportionment.

### **TESTING:**

#### **Audiogram:**

Patricia Keane, performed all ear tests at AudioRx.

This man responded well to the subjective aspects of the audiogram. An accurate hearing test was achieved, as there was very good inter-test reliability. A noticeable high tone sensorineural loss was recorded for both ears. His fixed-frequency Bekesy confirms the pure tone test. Speech discrimination values are 92% for the right ear and 88% for the left ear.

A tinnitus test match was done which confirms that this man has ringing in his ears. The episodic tinnitus was matched at a pitch of 6000 hertz at intensity of 35 dBHL in the right ear and at 35 dBHL in the left ear. The character and degree of his tinnitus are described under present history.

### **CALCULATION OF A NON-RATABLE HEARING NERVE LOSS:**

Below is this man's **HEARING LOSS CALCULATION** as mandated by the State of California:

Test Frequency	<u>500</u>	<u>1000</u>	<u>2000</u>	<u>3000</u>	Hertz			
Right Ear								
Air Conduction	05	+	10	+	10	+	15	= 40 dB
Left Ear								
Air Conduction	05	+	10	+	20	+	20	= 55 dB

In order to have a ratable hearing nerve loss, the **decibel sum** of **hearing threshold levels** (**DSHL** = the sum of 500, 1000, 2000 and 3000 decibels of air conduction hearing loss for each ear) must total more than 100 decibels in one or both ears.

As noted above, this man's **DSHL** total for either ear is not more than 100 decibels and therefore does **not** constitute a **ratable** hearing loss, according to the formula adopted by the State of California Department of Industrial Relations.

This man's hearing loss impairment calculation is 0%, and his Whole Person Impairment, in turn, is **0%**.

**Tympanogram:**

This recording of his middle ear function reveals no evidence of ear canal obstruction or perforation, ossicular discontinuity, or fluid within the middle ear space.

**DIAGNOSIS:**

- (1) Bilateral hearing nerve loss,  
secondary to industrial noise exposure. H90.3
- (2) Slight tinnitus,  
secondary to industrial noise exposure. H93.13
- (3) Bilateral impacted cerumen (resolved),  
not industrially caused. H61.23

**DISCUSSION:**

This man has a 30-year history of cumulative exposure to loud industrial noise while working as an officer for the Los Angeles County Sheriff's Department. He feels that his hearing has worsened over the years, and he attributes this to cumulative exposure to loud noise encountered at work.

On the job, this patient has been exposed to loud noise, including that from street (and highway) traffic, alarms and sirens, radios and air horns, and from the use of firearms. Friends and family tell him that he does not seem to hear as well now as he did in years past. He is irritated when he does not comprehend ordinary, everyday conversation, and in many cases, he has to ask people to repeat what they have just said. This problem is worse in settings such as restaurants and public places, where ambient noise is present. When watching television, he has to turn the volume up louder than others in the room prefer.

Audiometrically, he records a high tone sensorineural loss which is typical of a noise-induced hearing change. This means that there has been a loss of a number of hair cells in the Organ of Corti, causing a permanent loss of hearing in both ears.

His hearing loss is accompanied by episodic ringing in both ears, which he also attributes to noise exposure in the workplace. The tinnitus does not affect his activities of daily living and would now be best characterized as slight.

**Audiogram Results:**

Right Ear	500	1000	2000	3000	4000	6000	8000
Air:	05	10	10	15	20	30	45
Bone:	05	10	10	15	20	~	~
Left Ear	500	1000	2000	3000	4000	6000	8000
Air:	05	10	20	20	25	35	50
Bone:	05	10	20	20	20	~	~

The configuration of his hearing loss curve is typical of one caused by contact with loud noise. There is no medical and/or surgical treatment he might undertake that would improve or eliminate his hearing loss or his accompanying slight tinnitus. Both entities are now permanent and stationary and completely (100%) attributable to his work in and around loud noise as an L.A. County Sheriff's Department officer.

**Hearing Aid Evaluation:** Workers' Compensation Appeals Board guidelines require that the amount of improvement in hearing acuity this man might expect when wearing hearing aids should be carefully documented. The basis for the hearing aid evaluation is slightly different than the basis for the hearing loss calculation. Hearing aid evaluation results found no significant improvement with amplification in the aided vs unaided sound field testing. Amplification is not recommended at this time.

	500	1000	2000	3000	4000
Right ear, unaided	05	10	10	15	20
Right ear, aided	05	05	05	10	10
	500	1000	2000	3000	4000
Left ear, unaided	05	10	20	20	25
Left ear, aided	05	05	10	10	10

**FUTURE MEDICAL CARE and MONITORING:**

Due to the nature of his profession, this man should receive medical care for his hearing loss for the balance of his lifetime. Future audiograms should be scheduled every 5 years to monitor his hearing and he should return for another ENT evaluation in 10 years, or sooner if his audiologist so recommends. Immediate hearing tests should be done if this man feels that he has incurred a sudden additional hearing loss.

**PERMANENT and STATIONARY STATUS:**

I would conclude, with reasonable medical certainty, that he has bilateral hearing nerve loss and slight tinnitus that are now permanent and stationary.

**WORK RESTRICTIONS:**

Insofar as my specialty of ENT is concerned, no work limitations or restrictions are needed or imposed.

**MEDICAL CAUSATION and APPORTIONMENT:**

Here is a statement of my decision on apportionment, taking into account Labor Code Sections 4663 and 4664 (SB 899):

It is my considered opinion, with reasonable medical probability, that this man's bilateral hearing nerve loss and slight tinnitus have reached maximal medical improvement and are 100% attributable to the cumulative noise trauma he incurred while working in a noisy environment for the L.A. County Sheriff's Department. Apportionment is not necessary here, as he has no Whole Person Impairment according to the current AMA guidelines.

Thank you for the opportunity to evaluate Mr. Olivier. Should any questions arise regarding my findings, opinions or conclusions as expressed herein, please do not hesitate to contact me.

California WCAB Rule #10606 Compliance Statement: The names and qualifications of any people participating in this examination have been included in the body of the report. I took the history from the patient, conducted the examination, reviewed the records and prepared the report.

Pursuant to AB 1300, LC Sec. 5703, I have not violated Labor Code section 139.3, and the contents of the report and bill are true and correct to the best of my knowledge. All time spent and number of pages reviewed by me are correct and accurate to the best of my knowledge. This statement is made under penalty of perjury.

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.

Diagnostic studies, as well as any services performed at any outpatient surgical centers, were performed at outside facilities in which I have no financial interest. I further declare under penalty of perjury that I have not violated Labor Code Section 139.3 and that I have not offered, delivered, received, or accepted any rebate, fund, commission, preference, patronage divided, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for any referred examination or evaluation.

The examination of this patient together with the dictation, final conclusions and discussion were performed entirely by the signee. The opinions and conclusions expressed are my own.

It should be noted that 70% of the patients seen in my office are for treatment.

This report was signed on May 11, 2021 in Los Angeles County.

Sincerely yours,



**ANDREW G. BERMAN, M. D.**

Ear, Nose & Throat Specialist  
Facial Plastic & Reconstructive Surgery

Agreed Medical Examiner  
Qualified Medical Examiner  
Independent Medical Examiner

Enclosures

CC: Sedgwick CMS  
P.O. Box 7052  
Pasadena, CA 91109

# ANDREW G. BERMAN, M.D., INC

DIAGNOSTIC OTOLARYNGOLOGY  
1 2 3 4 5 6 7 8 9 10  
11 12 13 14 15 16 17 18 19 20

9001 WILSHIRE BOULEVARD, SUITE 204  
BEVERLY HILLS, CALIFORNIA 90211  
TELEPHONE 310.278.3223

EQUIPMENT CALIBRATED ON  
6-16-2020

NAME Olivier, Julien AGE 53 DATE 04/16/2021 BY Patricia Keane, MA-CCCA

## PURE TONE AUDIOGRAM:

RIGHT EAR:

DECIBELS EXPRESSED IN ANSI - 1969 (ISO-1964)

	500	1000	2000	3000	4000	6000	8000	HZ	MASKING LEVEL
AIR	5	10	10	15	20	30	45		
BONE	5	10	10	15	20				

TINNITUS MATCH:

RIGHT LEFT BOTH

6K<sub>HZ</sub> 35dB

LEFT EAR:

NR = NO RESPONSE  
EMF = EFFECTIVE MASKING FORMULA  
CNT = COULD NOT TEST

AIR	5	10	20	20	25	35	50		
BONE	5	10	20	20	20				

STENER:

POSITIVE \_\_\_\_\_ NEGATIVE \_\_\_\_\_

AUDIOLOGIC WEBER:



## HEARING AID EVALUATION:

MOST COMFORTABLE LEVEL

RIGHT 50 dB LEFT 55 dB

THRESHOLD OF DISCOMFORT

95 dB 100 dB

DISCRIMINATION AT MOST COMFORTABLE LEVEL

92% 88%

DISCRIMINATION IN SOUND FIELD

UNAIDED 68% AIDED 92%

## HEARING AID:

MAKE \_\_\_\_\_  
MODEL \_\_\_\_\_  
EAR \_\_\_\_\_  
YEAR \_\_\_\_\_

## SPEECH AUDIOMETRY:

SPEECH RECEPTION THRESHOLD

RIGHT 10 dB LEFT 15 dB

DISCRIMINATION AT

92% 88%

## ONE DECADE:

RIGHT 20 dB LEFT 20 dB

## WARBLE TONE THRESHOLDS:

	500	1000	2000	3000	4000	HZ
RIGHT EAR: UNAIDED	5	10	10	15	20	
RIGHT EAR: AIDED	5	5	5	10	10	
LEFT EAR: UNAIDED	5	10	20	20	25	
LEFT EAR: AIDED	5	5	10	10	10	

## COMMENTS:

Bilateral mild to moderate high frequency sensorineural hearing loss - no amplification recommended at this time. *h*

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BEVERLY HILLS, CALIFORNIA 90211

TELEPHONE 310.278.3223

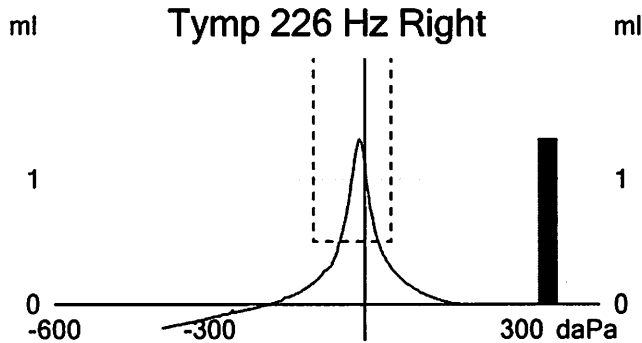
## Impedance and Acoustic Reflexes

First name Julien

Birth date 6/26/1967

Last name Olivier

Gender Male



Volume: 1.34 ml

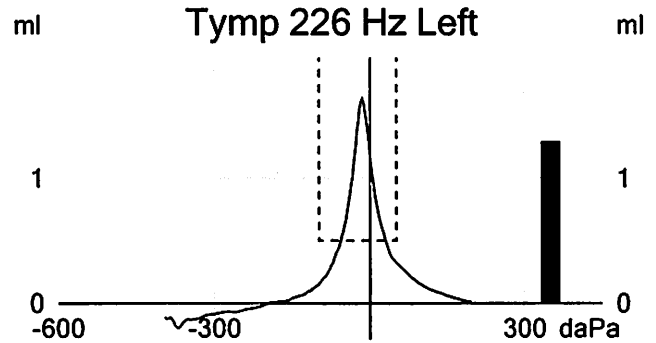
Pressure: -12 daPa

Compliance: 1.33 ml

Gradient: 53 daPa

Reflex F: 226 Hz P: -6 daPa

Probe	Activator	Stimulus	Threshold
Right	Right	500 Hz Ipsi	90 dB HL
Right	Right	1 kHz Ipsi	95 dB HL
Right	Right	2 kHz Ipsi	90 dB HL
Right	Right	4 kHz Ipsi	95 dB HL
Right	Left	500 Hz Contra	100 dB HL
Right	Left	1 kHz Contra	100 dB HL
Right	Left	2 kHz Contra	100 dB HL
Right	Left	4 kHz Contra	105 dB HL



Volume: 1.31 ml

Pressure: -17 daPa

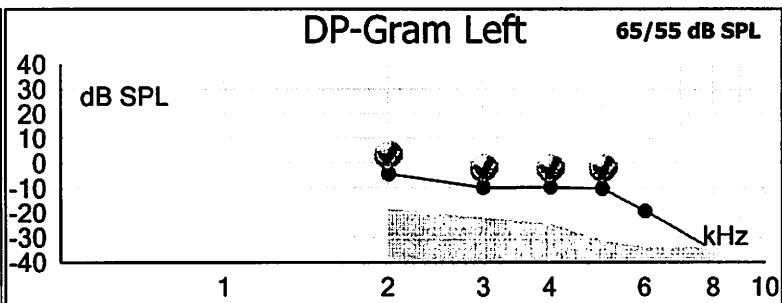
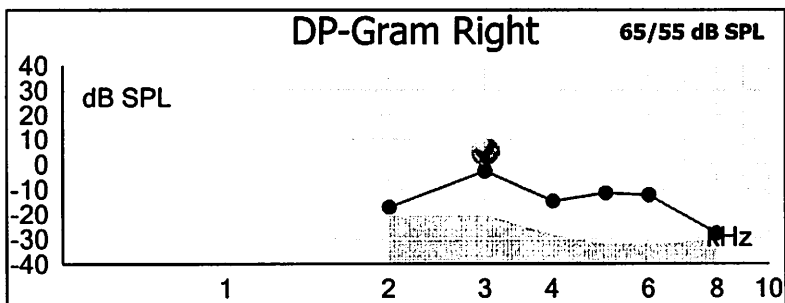
Compliance: 1.64 ml

Gradient: 55 daPa

Reflex F: 226 Hz P: -30 daPa

Probe	Activator	Stimulus	Threshold
Left	Left	500 Hz Ipsi	> 105 dB HL
Left	Left	1 kHz Ipsi	> 105 dB HL
Left	Left	2 kHz Ipsi	100 dB HL
Left	Left	4 kHz Ipsi	> 105 dB HL
Left	Right	500 Hz Contra	100 dB HL
Left	Right	1 kHz Contra	105 dB HL
Left	Right	2 kHz Contra	100 dB HL
Left	Right	4 kHz Contra	95 dB HL

## Distortion Product Otoacoustic Emissions (DPOAEs)



IMP 4/16/2021 12:14:25 PM

DPOAE 4/16/2021 12:14:25 PM

Miguel Angelo Avila, Au.D.  
Doctor of Audiology CA Lic #:2824



# AUDIOGRAM RESULTS

EMP NAME Olivier, Julien

SS NUMBER \_\_\_\_\_

DOB \_\_\_\_\_ SEX \_\_\_\_\_

DEPARTMENT \_\_\_\_\_

SHIFT \_\_\_\_\_ TWA \_\_\_\_\_

MONITOR MI-5000B AUDIOMETER

SERIAL NUMBER: 01499

CALIBRATED ON: 061620

USING ANSI S3.6-1969(R1973)

FREQ	THRESHOLDS	
	LEFT	RIGHT
500	20	20
1K	20	15
2K	25	10
3K	25	20
4K	30	25
6K	50	30
8K	55	30
1KR		15
2,3,&4K AVG	27	18

ELAPSED TIME 5:42

EXAMINER: p/c comm/k

ROOM NOISE MEETS TBL D1 (Y\_N\_)

TODAY'S DATE: 06/27/1967

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# STRAUSSNER ♦ SHERMAN

## LAWYERS

AARON STRAUSSNER  
JULIE LOCKS SHERMAN  
JEAN-PAUL LONNE'  
MICHAEL TREGER  
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ISAY KRUPNIK  
LAURA ASHLEY HELQUIST  
MICHAEL FARR  
JOSHUA ROBERTS  
DEMETRIUS T. MARTIN

December 22, 2020

Andrew Berman, M.D.  
9001 Wilshire Blvd., Ste. 204  
Beverly Hills, CA 90211

RE: **Julien Olivier vs. County of Los Angeles**

WCAB Case No. : Unassigned  
Claim No. : Unassigned  
Date of Injury : CT: 11/07/1990 - 12/15/2020  
Our File No. : WPY-15280

Dear Dr. Berman:

Thank you for agreeing to act as the treating physician pursuant to LC section 5402. You are scheduled to see Julien Olivier **April 16, 2021 at a.m.** in your Beverly Hills office. Please notify the parties immediately if the applicant fails to appear.

In addition to your examination of the applicant, please take a complete history, perform necessary non-evasive tests, and review the medical reports and records that are provided, if applicable. Based upon all of this information, please provide us with a written narrative report giving your opinion upon all factors of the applicant's disability including appropriate periods of temporary disability (TTD), causation, apportionment, future medical care and whole person impairment (WPI). Please refer to the American Medical Association (AMA) Guides to the Evaluation of Permanent Impairment, 5th Edition

Very truly yours,

STRAUSSNER ♦ SHERMAN



By: JULIE LOCKS SHERMAN

JLS:djg