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Re: Daniel Doran
D.O.I.: 07/11/2012
D.O.B.: 06/04/1966
Employer: Benedict & Benedict Plumbing
Claim #: 05814232
WCAB CASE No.: ADJ8760713

Vocational Evaluation Report

I have been requested to perform a forensic vocational analysis and report addressing whether based on his industrial related injuries Mr. Daniel Doran has suffered a loss in his ability to amenability to vocational rehabilitation, sustain gainful employment, and therefore, his ability into compete in the open labor market and to determine the percentage of diminished future earning capacity (wage loss) due to his worker compensation injuries. Authority for this evaluation is found in Labor Code 4600, 4662, 5703 (j) and 8CCRS10606.S, as well as the *LeBouef* and *Ogilvie* cases, AMA Guides Section 1.1 through 1.9.

In the present case Mr. Doran is a 51-year-old male who was employed as a Plumber at the time of his industrial injury. During this period, Mr. Doran suffered injuries to his arm- above wrist, arm- elbow, hand, shoulders (scapula and clavicle), digestive system (stomach), nervous system - stress, and nervous system- psychiatric / psych. He saw Agreed Medical Examiner Dr. James F. Lineback, Qualified Medical Examiner Soheil M. Aval, and Qualified Medical Examiner Dr. Daphna Slonim. The doctor reports are reviewed in further detail in the attached addendum.



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My assignment in this unique case was to determine whether Mr. Daniel Doran is amenable to vocational rehabilitation. I have been employed as a Bilingual Vocational Rehabilitation Counselor for approximately 15 years throughout this time I have conducted a diverse amount Vocational Rehabilitation Counseling, Supplemental Job Displacement Benefit Voucher Counseling, Supplemental Return to Work Fund Benefits Consultant, and Vocational expert report writing and testimony. Since 2011 I have conducted approximately 4,000 evaluations to determine vocational feasibility and diminished earning loss. In addition, I am currently a member of the American Board of Vocational Experts, Member of California Applicant Attorney Association, a member of the International Association of Rehabilitation Professionals, President of Latino Comp, member of Voters Injured at Work, and a member of Wounded Warriors Project.

The assessment of transferable skills obtained through work experience and educational development has been an effective method for determining occupations that a worker can perform assuming that worker's trait capabilities meet or exceed the job requirements. The profiles identify which occupations in which a person has the ability and transferability to perform. This is the basis for suggesting that a person can reasonably be successfully placed in a specific job type and can be expected to earn reasonable level of income estimated for selected job type in the relevant geographical labor market as indicated in the McCroskey Theory of MVOS Pre/Post earning capacity range and is consistent with the AMA Guides.

EDUCATIONAL AND VOCATIONAL BACKGROUND

To determine Mr. Doran's ability to sustain gainful employment within the open labor market Mr. Doran's industrial related physical limitations and transferable skills must be considered. Mr. Doran was born in Pasadena, California. Mr. Doran currently resides in San Dimas, California. Mr. Doran graduated from Citrus College taking plumbing courses in 1980. At the time of his industrial injury Mr. Doran was employed with Benedict and Benedict Plumbing as a plumber for 4 years earning \$25.00 per hour. Prior to his employment with Benedict and Benedict Plumbing, Mr. Doran was employed with Dr. Drain in the city of Mammoth Lakes as a Plumber for 1 ½ years. Prior to his employment with Dr. Drain, Mr. Doran was self-employed

with Double D Plumbing for 8 years. Prior to his employment with Double D Plumbing, Mr. Doran was employed as a Pipe Fitter at the age of 17. Since his industrial injury Mr. Doran hasn't been employed. On March 17, 2017 Mr. Doran was deemed unemployable by the United States Federal Government and awarded Social Security benefits. Mr. Doran is receiving \$1,040.00 per month.

MEDICAL REPORTS THAT WERE REVIEWED

1. James F. Lineback, M.D. – 12/15/2016
2. Soheil M. Aval, M.D. – 06/30/2015
3. Daphna Slonim, M.D. – 06/21/2016

MEDICATION:

Mr. Doran is currently taking the following prescribed medication:

Amitriptyline HCL 50mg

Metformin 1000mg

Montelukast 10mg

Gabapentin 800mg

Lisinopril 10mg

Glipizide 5mg

THE FOLLOWING LIMITATIONS WERE GIVEN IN THE MEDICAL REPORTS:

1. Dr. Aval reported Mr. Doran is precluded from activities of repetitive or forceful gripping, fine manipulation, torquing, and heavy lifting with the right upper extremity.
2. Qualified Medical Examiner in Psychiatry Dr. Slonim indicated Mr. Doran should avoid stresses at work.
3. Qualified Medical Examiner Dr. Soheil M. Aval expressed in terms of self-care activities, Mr. Doran relates moderate difficulties with brushing and washing his hair in addition to bathing and showering and brushing his teeth.
4. Dr. Aval mentioned Mr. Doran has moderate to severe difficulty with preparing meals.

5. Dr. Aval reported Mr. Doran notes increased symptomatology and difficulty with activities of heavy lifting.
6. Dr. Aval noted Mr. Doran is unable to lift or carry even a gallon of milk.
7. Dr. Aval notes Mr. Doran has moderate symptomatology and difficulty with bending and twisting his neck, bending and twisting his back, lifting his arms overhead, typing and writing.
8. Dr. Aval stated Mr. Doran is unable to push or pull.
9. Dr. Aval indicated Mr. Doran has moderate to severe difficulty with kneeling, squatting, crawling, climbing.
10. Dr. Slonim noted Mr. Doran being socially withdrawn, impaired sleep, indecisiveness, not functioning in hobbies and in the household, impaired concentration and memory, avoiding driving the freeway.

OCCUPATIONS THAT WERE ANALYZED USING McCROSKEY AND VOLCANO 16.0 SOFTWARE

Mr. Doran has the following work history, according to the United States Department of Labor, Dictionary of Occupational Titles (DOT) and 1991 Edition.

Mr. Doran graduated from Citrus College taking plumbing courses in 1980. At the time of his industrial injury Mr. Doran was employed with Benedict and Benedict Plumbing as a plumber for 4 years earning \$25.00 per hour. Prior to his employment with Benedict and Benedict Plumbing, Mr. Doran was employed with Dr. Drain in the city of Mammoth Lakes as a Plumber for 1 ½ years. Prior to his employment with Dr. Drain, Mr. Doran was self-employed with Double D Plumbing for 8 years. Prior to his employment with Double D Plumbing, Mr. Doran was employed as a Pipe Fitter at the age of 17.

<u>DOT Code</u>	<u>DOT Title</u>	<u>Exertional Level</u>	<u>Skill Level (SVP) Code</u>
862381030	Plumber	7	skilled

The analysis of Mr. Doran employment history demonstrates that Mr. Doran has the occupationally performed in skilled work of Medium physical requirements. The Dictionary of Occupational Titles (DOT) describes skilled jobs of SVP 7 as work that requires over 2-4 years

and including one year of training. The Specific Vocational Preparation (SVP) necessity to perform a job adequately is defined as the amount of time required by a typical employee to learn the techniques, acquire information, and develop the facility needed for average performance in a specific job. The SVP Code ranges from 1 to 9, 1-2 defining unskilled work, 3-5 defining semi-skilled work, and -9 defining skilled work. Specific Vocational training can include (1) training given through vocational education, commercial, technical, college or apprentice shop training which is focused around a certain subject or vocational objective. (2) On the job training. (3) Experience in other jobs.

- Skilled work requires specific qualifications, the use of judgment, and knowing how to perform mechanical or manual tasks to create a product or material (or provide a service). Skilled work may also include reading specifications, measuring, estimating, and making calculations. Skilled work can include jobs that require a person to work closely with others, or with figures, facts, or ideas that require complex, abstract, or critical thinking. It takes at least six months and often many years to train for and learn a skilled job.
- Semi-skilled work requires some skills but doesn't include complex job functions. Semi-skilled work usually requires the ability to remain alert and pay attention to detail and/or protecting against risks. A job that requires hands and feet to be moved quickly (involving coordination and dexterity) to do a repetitive task can be classified as semi-skilled. It usually takes between three and six months to learn a semi-skilled job.
- Unskilled work requires little or no judgment to perform simple tasks and can usually be learned in less than a month. Doing unskilled work does not help a person gain work skills. Unskilled work often requires strength, but not always.

The exertional level of a job (ie., physical demands) reflect the estimated overall strength weight requirements of a job. Mr. Doran's physical demands of his employment require that be able to perform Medium is defined by the United States Department of Labor as work that requires

lifting a maximum of 50 pounds occasionally with frequent lifting or carrying object weighing pounds

- **Sedentary work.** Sedentary work involves lifting no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met.
- **Light work:** Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds. Even though the weight lifted may be very little, a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls. To be considered capable of performing a full or wide range of light work, you must have the ability to do substantially all of these activities. If someone can do light work, we determine that he or she can also do sedentary work, unless there are additional limiting factors such as loss of fine dexterity or inability to sit for long periods of time.
- **Medium work.** Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. If someone can do medium work, we determine that he or she can also do sedentary and light work.
- **Heavy work.** Heavy work involves lifting no more than 100 pounds at a time with frequent lifting or carrying of objects weighing up to 50 pounds. If someone can do heavy work, we determine that he or she can also do medium, light, and sedentary work.
- **Very heavy work.** Very heavy work involves lifting objects weighing more than 100 pounds at a time with frequent lifting or carrying of objects weighing 50 pounds or more. If someone can do very heavy work, we determine that he or she can also do heavy, medium, light and sedentary work

Occasionally: activity or condition exists up to 1/3 of the time.

Frequently: activity or condition exists from 1/3 to 2/3 of the time.

Constantly: activity or condition exists 2/3 or more of the time

TRANSFERABLE SKILLS ANALYSIS

Mr. Doran has very few if any transferable skills. A transferable skills analysis was conducted using McCroskey Volcano Quotient System 16.0 (MVQS) and Volcano 16.0 developed by Bill McCroskey. The MVSQ is a highly reliable and valid program utilized by vocational experts with the American Board of Vocational Experts and International Association of Rehabilitation Professionals community throughout the United States to determine a person's employability.

In performing a Vocational Analysis an important factor in the achieved results is the transferable skills analysis. This analysis takes into account the skills that an injured worker possess that can be transferred into a similar or different occupation through training. This is also taking into consideration the effects that the person's impairments / limitations have on their physical ability to perform the skills for the job or the skills required to reenter the open labor market that a person can possibly acquire through training. For example, a construction cement layer worker of 25 years may have some mental and cognitive skills that he can transfer into a new job however, emotionally or physically not be able to perform the occupation.

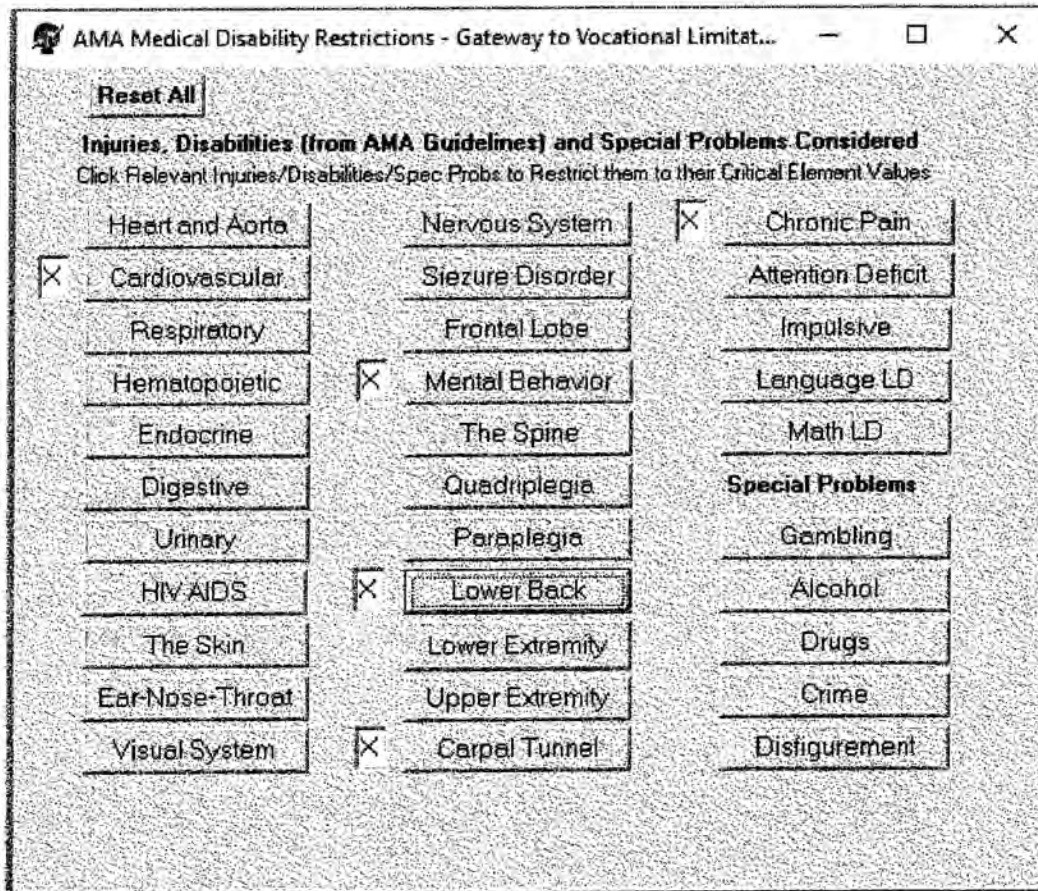
In order for a skill to be considered "Transferable" it must meet three tests.

1. Information: The individual must have the knowledge of the skills requirement based on education or past vocational experience.
2. Recognition: The worker must have the cognitive ability to recognize which skills are required and follow appropriate sequencing to complete the task or responsibility
3. Execution: The worker must be able to perform the physical components of the required skill at a competitive level of productivity given the individuals medical impairments.

To determine the post – injury jobs available the clients industrial related physical limitations must be considered by inputting the affected body parts and or/psychological work function impairments. In Mr. Doran’s case the medical limitations and or industrial function impairments discussed in the reports of Agreed Medical Examiner Dr. James F. Lineback, Qualified Medical Examiner Soheil M. Aval, and Qualified Medical Examiner Dr. Daphna Slonim. In assessing, both Mr. Doran’s physical work limitations and transferable skills McCroskey Volcano 16.0 software did not identify any occupations that are physically and emotionally appropriate for Mr. Doran within the open labor market within the Los Angeles geographical area in which, Mr. Doran had any of the transferable skills required for employment within the labor market for him. (See Addendum Transferable Skills Analysis)

These charts represent the industrial related disabilities provided in the medical reports written by Agreed Medical Examiner Dr. James F. Lineback, Qualified Medical Examiner Soheil M. Aval, and Qualified Medical Examiner Dr. Daphna Slonim, to assist in determining the transferable skills and potential occupations within the open labor market available to Mr. Doran.

AMA MEDICAL DISABILITY RESTRICTIONS:



Injuries Disabilities and Special Problems Considered

Lower Back, Carpal Tunnel, Mental, Cardiovascular and Chronic Pain, were check off to reflect Mr. Doran industrial related disabilities that are being considered.

The MVSQ software program automatically adjusted the following elements to their critical value sitting, standing, walking, / running, repetitive motions, whole body vibrations, bright lighting, containments, radiation, disease infections, using hands-on objects, tools, controls, outdoor hazardous conditions, hazardous equipment, hazardous situations, cramps awkward

body positions, bending twisting of the body, kneeling, regaining balance, and high places. In addition, the software also adjusted the Temperaments of Tolerances to the critical value of 1-0.9.

O*NET WORK CONTEXT ELEMENTS AND HAJR-91 WORKER TEMPERMENTS:

O*NET Work Context Elements and HAJR-91 Worker Temperments - Vocational Limi... □ ×

Work Context Elements and Temperments Considered
 Double-Click Relevant Work Context Elements and/or Temperments to Restrict Foundation to their Critical Values

Physical & Environmental Work Context Elements		Temperments	
2	<i>Sitting</i>	4	Indoors
2	<i>Standing</i>	2.9	Outdoors
2.9	<i>Walking or Running</i>	2	Hazardous Conditions
2.9	<i>Make Repetitive Motions</i>	2	Hazardous Equipment
2.9	<i>Whole Body Vibration</i>	2	Hazardous Situations
4	Sounds are Distracting	2	Cramped/Awkward Body Positions
2.9	Very Hot	2.9	Bending/Twisting of the Body
2.9	Poor or V. Bright Lighting	2.9	Kneeing, Crouching, Crawling
2.9	Contaminants	2	Climbing Ladders, Scaffolds
2.9	Radiation	2.9	Keeping, Regaining Balance
2.9	Diseases, Infections	2.9	High Places
2	Using Hands on Objects, Tools, Controls		
		1	Directing Others
		0.9	Repetitive Work
		1	Influence People
		1	Variety of Duties
		1	Expressing Feelings
		1	Alone Working
		0.9	Stress Tolerance
		0.9	Tolerances, Close
		1	Under Instructions
		1	People, Dealing with
		1	Judgments, Making

**WORK CONTEXT ELEMENTS AND TEMPERMENTS CONSIDERED
 PHYSICAL AND ENVIROMENTAL WORK CONTEXT ELEMENTS**

- Sitting reduced to 2
- Standing reduced to 2
- Walking / Running reduced to 2
- Make Repetitive Motions reduced to 2
- Hazardous Conditions reduced to 2
- Hazardous Equipment reduced to 2
- Hazardous Situation reduced to 2

Cramped Awkward reduced to 2
Bending/ Twisting of the Body reduced to 2
Kneeling Crouching reduced to 2
Climbing Ladders reduced to 2
High Places reduced to 2
Keeping Regaining Balance reduced to 2.9
Directing Others reduced to 1
Repetitive Moves reduced to .9
Influence People reduced to 1
Variety of Duties reduced to 1
Expressing Feelings reduced to 1
Alone Working reduced to 1
Stress Tolerance reduced to .9
Under Instruction reduced to 1
People Dealing with reduced to 1
Judgments, Making reduced to 1

While psychological work functions impairments cannot be considered in the McCroskey Vocational Quotient System, they can be inputted in the MVSQ Volcano 16.0 software. In the Volcano software information is inputted regarding past work history, along with general injuries of the Lower Extremity, Lumbar and Mental Behavior. There is a subsequent screen titled "Work Context Elements and Temperaments Considered" and within this screen problems regarding kneeling, crawling, reaching, walking, running, sitting and crouching can be inputted as well as psychological work function impairments, such as directing others, influencing others, variation of duties, dealing with people, judgment making and stress tolerances. In addition, there is another screen titled "Critical and Physical Environmental Elements and Special Problems Considered" and in this screen problems regarding upper extremity and lower extremity are inputted.

HAJR-91 WORKER TRAITS, ELEMENTS & WORK TEMPERAMENTS:

HAJR-91 Worker Traits, Elements & Work Temperaments - Vocational Limitations Screen

Reset All **Critical Worker Traits and Temperaments Considered**

Click Relevant Worker Traits and/or Work Temperaments buttons to Restrict Foundation to their Critical Element Values

General Educ Dev	Physical Demands	Temperaments
Reasoning Development <input checked="" type="checkbox"/>	Strength/Lift/Carry/Push/Pull	D - DIRECTING, Controlling or Planning
Math Development	Climb/Balance	R - REPETITIVE or Short-Cycle Work
Language Development	Stoop/Crouch/Kneel/Crawl	I - INFLUENCING People
Aptitudes	Reach/Handle/Finger/Feel <input checked="" type="checkbox"/>	V - Performing a VARIETY of Duties
Spatial Perception	Talk/Hear	E - EXPRESSING Personal Feelings
Form Perception	Seeing/Visual Acuity	A - Working ALONE
Clerical Perception	Environmental Conds	S - Performing Effectively under STRESS
Motor Coordination	Indoors/Both/Out	T - Attain Precise Set Limits/TOLERANCES
Finger Dexterity	Extreme Cold	U - Working UNDER Specific Instruction
Manual Dexterity	Extreme Heat	P - Dealing with PEOPLE
Eye-Hand-Foot Coord	Damp/Humid	J - Making JUDGMENTS and Decisions
Color Discrimination <input checked="" type="checkbox"/>	Noise/Vibrations	
	Hazards: Mech/Elec/Chem/Hts	
	Dust/Fumes/Mists/Gas	

Critical Worker Traits and Temperaments Considered

Critical worker traits temperaments that were considered are Strength lift/ Carry/ Push / Pull, / Reach Handle Feel, Repetitive or Short cycle work

ESTIMATION ALGORITHMS

In order to analyze Mr. Doran’s employability within the Open Labor Market I utilized the peer reviewed the McCroskey Vocational Quotient System (MVQS) and the Volcano 16.0 Transferable skills analysis Program (Dennis, M.K., & Dennis, K.L., 1998) and the 11th edition McCroskey Dictionary of Occupational Titles (McCroskey B.J., 2015), to evaluate Mr. Doran’s transferable skills and assess his employability and earning capacity. Computerized Transferable

Skills Analysis (TSA) applications such as McCroskey Volcano have been traditionally used for analysis and comparisons between pre/post-injury/impairment skill sets.

The McCroskey Vocational Quotient System (MVQS) and the Volcano 16.0 Transferable skills analysis Program is utilized by vocational experts with the American Board of Vocational Experts and International Association of Rehabilitation Professionals community throughout the United States to determine a person's employability. To determine the existence of transferable skills, if any, and is presently used within the Social Security guidelines set forth in 20 CFR 404.1568(d); 404.1565(a) and 416.965(a) as a guide, this software looks at an individual's work history and the 24 most vocationally Significant Critical Worker Traits which is comprised of 124 elements pertaining to mental, physical, work context, temperaments, and environments, based on traits listed in the United States Government "Handbook for Analyzing Jobs" and the Occupational Information Network(O*Net) . Once all the information is inputted into the program. The program will then find a connection between transferable skills and the occupation that are listed in the McCroskey Dictionary of Occupational Titles. This is an updated version of the DOT. Volcano software also contains tables of labor market and wages within the different listed geographic regions that is based on information from the Dictionary of Occupation.

While performing the evaluation, I inputted into the 2016 McCroskey Transferable Skills Analysis, Volcano 16.0, all semi-skilled and skilled jobs Mr. Doran has performed within the last 15 years from the date he was last declared permanent and stationary.

To establish and evaluate Mr. Doran's entire pre-injury estimated labor market, I entered all unskilled, semi-skilled and skilled jobs he has performed to determine occupational possibilities that best reflect his maximum pre/post capabilities expressed by an abilities profile, which was developed based upon objective information about Mr. Doran's demonstrated and potential performance in the vocationally significant traits.

Once Mr. Doran's ability profile was prepared and the occupational market was selected the program then analyzed one job at a time from the database and compared the measurements of each of the 24 vocationally significant traits. If Mr. Doran's first measurement is greater than or

equal to the occupation demand measure, the occupation is kept. Then, the McCroskey Volcano goes to the next measure and compares again. This process is repeated until the worker's ability measure in one of the traits falls below the demand of the job. If that happens, the job is excluded from the results. If the worker profile meets or exceeds the job demand in every one of the 24 traits, the job is reserved

The McCroskey Volcano then analyzes the next occupation and begins the process all over again until it has gone through every job in the database. When finished, the final list contains only jobs the worker can potentially do in every category. The result of the comparison is a list of jobs for which the worker has the traits to meet the job demands.

PRINCIPLES OF ANALYSIS

In order to provide a complete analysis in this case, it is important to discuss my familiarity with the basic principles involved. In fact, it is my obligation to be familiar with the controlling legal principles and make certain to meet the requirements of the law when conducting my analysis.

(Gay v. WCAB, 44 CCC 817.)

The AMA Guides measure impairment as stated on page 4 as:

“Impairment percentage or ratings developed by the medical specialists are consensus driven estimates that reflect the severity of the medical condition and degree to which the impairment decreases an individual’s ability to perform common activities of daily living. (ADL) excluding work.”

As stated in the AMA Guides on page 8 under 1.2 Disability:

“A disability determination also includes information about the individual’s skill, education, job history, adaptability, age, and environment requirements, and modifications. Assessing these factors can provide a more realistic picture of the effects of the impairments on the ability to perform complex work and social activities”.

The AMA Guides on page 14 under 1.9 Employability Determinations state:

“More complicated are the cases in which the physician is requested to make a broad judgment regarding an individual’s ability to return to any job in his or her field. A decision of this scope usually requires input from medical and non-medical experts such as vocational specialists and the evaluation of both stable and changing factors, such as a person’s education, skills, and motivation, the state of the job market, the local economic consideration.”

Prior to the enactment of SB 899, the Courts interpreted Section 4660(a), in determining the percentage of permanent disability, as a percentage of the open labor market that the injured worker was no longer able to compete in as a consequence of a work injury. The California Supreme Court confirmed this interpretation in *LeBoeuf v. WCAB* (en banc) 48 CCC 587, when it stated that “a permanent disability rating should reflect as accurately as possible an injured employee’s diminished ability to compete in the open labor market.” (See also the Supreme Courts’ later decision in *Livitsanos v. The Superior Court of Los Angeles County*, 57 CCC 355, confirming this concept.)

Even before SB899 and the WCAB holdings in *Costa I* and *II*, (discussed below) the Courts clearly defined the role of the PDRS, consistently holding that a Rating Schedule is subject to rebuttal when it fails to accurately reflect the percentage of permanent disability in a particular case. (See *Nielson v. WCAB* 39 CCC 83, *LeBoeuf v. WCAB* 38 CCC 587, and *Mihesuah v. WCAB* 41 CCC 81.) The *Mihesuah* Court described the constraint of the PDRS this way:

“... the actual “schedule” is no more than a convenient tabulation of the process it describes. According to its second paragraph, the formula itself is only a “guide” to be employed in following and concluding the process... the final rating will be a result of consideration of the entire picture of disability and possible employability.”

The courts have held that the Board may not rely upon limitations in the rating schedule to deny the worker a permanent disability award which accurately reflects the true disability. (*Glass v. WCAB* 45 CCC 441.) In fact, the courts have long accepted evidence and testimony in rebuttal to the PDRS estimate of permanent disability. (See types of experts utilized: *Chevron v. WCAB* 65 CCC 922 – vocational rehabilitation counselor; *Pence v. IAC* 30 CCC 207 – union business agent)

Furthermore, in *Nielsen v. WCAB* 39 CCC 83, the court held that an Award of Permanent Disability lacks a “rational basis”, and is also “arbitrary” and “unreasonable”, if it is simply based upon the DEU rating, but ignores other facts that are relevant to the percentage of permanent disability.

In "*Costa I*" (71 CCC 1797), the Board held that "Although SB 899 made sweeping changes to section 4660, it did not alter the provision which allows the parties to present rebuttal evidence to a rating under the PDRS." The Board noted that the provision that the schedule "shall be prima facie evidence of the percentage of permanent disability to be attributed to each injury covered by the schedule" is one of only two provisions that remained unchanged by SB 899. This provision, according to the Board, "has allowed the introduction of rebuttal evidence to ratings under the PDRS." In support, the Board cited the holding in *Universal Studios, Inc. v. Workers' Comp. Appeals Bd. (Lewis)* 44 CCC 1533, as follows:

"The percentage of disability determined by use of the rating schedule is only prima facie evidence of the percentage of permanent disability to be attributed to each injury. Thus, it is not absolute, binding and final. (Lab. Code, §4660; *Liberty Mut. Ins. Co. v. Industrial Acc. Com [Serafin]* [1948], *supra*, 33 Cal.2d 89 [13 Cal.Comp.Cases 267, 270].) It is therefore, not to be considered all of the evidence on the degree or percentage of disability. Being prima facie, it establishes only presumptive evidence. Presumptive evidence is rebuttable, may be controverted and overcome."

The Board also cited *Glass v. Workers' Comp. Appeals Bd.* 45 Cal.Comp.Cases 441, wherein "the Court cited *Lewis*, among other cases, to conclude that 'the Board may not rely upon alleged limitations in the Rating Schedule to deny the injured worker a permanent disability award which accurately reflects his true disability.'

Based upon these, and other, cited cases the Board concluded in *Costa I* that;

"It appears that in choosing to retain the language that the PDRS 'shall be prima facie evidence of the percentage of permanent disability to be attributed to each injury covered by the schedule' in section 4660 (while changing almost everything else in that section), the Legislature intended to continue to allow the parties the opportunity to present rebuttal evidence to ratings under the new PDRS."

Later, in "*Costa II*" (72 CCC 1492), the Board reaffirmed its main holdings from *Costa I* and additionally allowed for the WCAB to order payment by the defendant for the applicant's vocational expert. The Board concluded that, in general, vocational counselors appear to be qualified with respect to rebutting the PDRS. The Board further held that the costs of evidence on and/or in rebuttal to a permanent disability rating must be reasonable and necessary at the time they were incurred, but that the expert evidence does not necessarily have to successfully affect the permanent disability rating to be reimbursable.

After *Costa I and Costa II*, the Court of Appeal issued the *Ogilvie* decision (76 CCC 624), which discussed various methods to rebut the PDRS, and confirmed that the opinion of a vocational expert is appropriate to determine whether an injured worker has the ability to compete in the open labor market due to the effects of a work injury (referring to *Gill* 167 Cal. App. 3d 306).

It should be noted that the *Ogilvie* court determined that the phrases "ability to compete in an open labor market" to "diminished future earning capacity" are essentially the same concepts.

The *Ogilvie* court confirmed that one of the methods to rebut the PDRS was to demonstrate that the industrial injury has impaired his or her rehabilitation, and for that reason the employee's diminished future earning capacity is greater than what is reflected in the rating, citing *LeBoeuf* (34 Cal. 3d 234).

Significantly, the *Ogilvie* court also made clear that the focus of the analysis must be the effects of the industrial injury on the injured workers ability to engage in vocational rehabilitation, not general economic conditions, illiteracy, proficiency to speak English, or lack of education - i.e. which existed before and after an injury. In other words, the employer is responsible for the disability the injury caused, and is not permitted to escape liability by blaming extraneous factors.

In the most recent, and significant, case on the determination that an injured worker is not feasible (or not "amenable") to vocational rehabilitation, the Court of Appeal in *Contra Costa County vs. WCAB (Dahl)* Case No. A141046 (WCAB No. ADJ1310387) provided additional guidance in the required analysis to rebut the PDRS, including the considerations when determining the injured worker's ability to participate in vocational rehabilitation.

Specifically, the *Dahl* court made clear that an individual analysis, rather than a generalized analysis based on "similarly situated" employees, is to be used, stating:

"The first step in any *LeBoeuf* analysis is to determine whether a work-related injury precludes the claimant from taking advantage of vocational rehabilitation and participating in the labor force.

The court offered this example:

"...the WCAB denied an employer's petition for reconsideration of a 100 percent disability rating where Oxycontin, a medication used to treat the claimant's industrial injury, had a "severe effect" on the claimant's ability to work. The focus was on the limitations flowing from the claimant's particular condition, not the earning potential of similarly situated individuals who might be subject to different limitations. It is this individualized assessment of whether industrial factors preclude the employee's rehabilitation that *Ogilvie* approved as a method for rebutting the Schedule.

The *Dahl* court went on to state:

"Just as retraining may increase a worker's ability to compete in the labor market, a determination that he or she cannot be retrained for any suitable gainful employment may adversely affect a worker's over all ability to compete.

Accordingly, that factor should be considered in any determination of a permanent disability rating".

As in the *Ogilvie* case noted above, the *Dahl* court made clear non-industrial factors such as "general economic conditions, illiteracy, proficiency in English, or an employee's lack of

education" are not to be utilized to excuse the employer's responsibility to compensate the injured worker for the effects of the industrial injury on his or her amenability for rehabilitation.

In analyzing Mr. Daniel Doran's case pursuant to *Ogilvie III*, I have taken consideration the recent *Dahl* decision, which emphasizes that an applicant must demonstrate evidence that the individual is not amenable to rehabilitation. This decision is summarized as follows:

"Dahl sought to invoke the second method approved in *Ogilvie* (the "*LeBoeuf* method") under which the employee shows she "will have a greater loss of future earnings than reflected in a rating because, due to the industrial injury, the employee is not amenable to rehabilitation." (*Ogilvie*, 197 Cal.App. 4th atp. 1275.) *Dahl's* "rebuttal," however, included no evidence that the industrial injuries she sustained to her neck and shoulder rendered her incapable of rehabilitation."

Additionally, requests for reconsiderations are noted to be denied in most cases when the individuals amenable to rehabilitation are impacted by pre-existing/non-industrial factors:

"In *Ogilvie*, the court concluded the *LeBoeuf* approach was limited to cases "where the employee's diminished future earnings are directly attributable to the employee work-related injury, and not due to nonindustrial factors such as general economic conditions, illiteracy, proficiency in speaking English, or an employee's lack of education." (*Ogilvie*, supra, 197 Cal.App.4th atp. 1275) "This application of *LeBoeuf* most closely looks to an employer's responsibility... to 'compensate only for such disability or need for treatment as is occupationally related' "(Ibid)

In this case, non-industrial medical factors are limited, for example, According to Dr. Lineback both of Mr. Doran's parents have a history of hypertension, thus 25% of his disability with respect to his hypertension should be apportioned to his nonindustrial family history, and the remaining 75% of his disability with respect to his hypertension should be apportioned to industrial factors. Nevertheless, there is no evidence that this condition, nor any others, affected his pre-injury employment status or earnings. There is 25% apportionment of Mr. Doran's pre-existing hypertension, however, this condition does not prevent him from vocational retraining as does any other orthopedic, internal, and psychiatric non-industrial disability.

The *Ogilvie III* decision is also specific that cases which are impacted by vocationally-related non-industrial factors do not rebut an Applicant's scheduled rating:

"...the most widely accepted view of its holding, and that which appears to be most frequently applied by the WCAB, is to limit its application to cases where the employee diminished future earnings are directly attributable to the employee's work related injury, and not due to nonindustrial factors such as general economic conditions, illiteracy, proficiency to speak English, or an employee's lack of education."

"The application of the rating schedule is not rebutted by evidence that an employee's loss of future earnings is greater than the earning capacity adjustment that would apply to his or her scheduled rating due to nonindustrial factors."

In Mr. Doran's case, his past employment as a Plumber is a skilled type of work. Consequently, in occupational terms, he does not appear to have been impacted by education, since Mr. Doran graduated from Citrus College, thus, there is no reason to assume that he would be affected by them in the future. Therefore, Mr. Doran's industrial related injury and subsequent work limitations are the only and direct cause of his non-amenability to vocational rehabilitation.

APPORTIONMENT:

As a vocational expert, I am mandated under the law to deal with apportionment, and its role if any, in my analysis. I am mandated not to take into consideration any "apportioned" disability or impairment which is non-industrial and only deal with the industrial component of the impairment and or disability.

Qualified Medical Examiner Dr. Soheil M. Aval apportioned 100% of Mr. Doran's impairment is due to the injury to July 11, 2012. Dr. Aval doesn't see evidence of other contributing factors to his impairment. Qualified Medical Examiner Dr. James F. Lineback indicated 100% of Mr. Doran's disability with respect to his sleep disorder should be apportioned to industrial factors. There is no evidence of any nonindustrial factors playing a role in his insomnia. According to Dr. Lineback both of Mr. Doran's parents have a history of hypertension. Therefore, per Dr. Lineback 25% of his disability with respect to his hypertension should be apportioned to his nonindustrial family history, and the remaining 75% of his disability with respect to his hypertension should be apportioned to industrial factors. Dr. Lineback indicated there is no evidence that Mr. Doran had any nonindustrial risk factors for anal fistula or constipation. Dr.

Lineback commented 100% of Mr. Doran's disability with respect to his anal fistula and his constipation should be apportioned to industrial factors. Qualified Medical Examiner in Psychology Dr. Daphna Slonim commented 20% is apportioned to pre-existing and non-industrial factors, 20% is a result of financial worries, and 60% is apportioned to the industrial injury of 07/11/2012.

In my analysis, I have considered any apportionment raised by Agreed Medical Examiner Dr. James F. Lineback, Qualified Medical Examiner Soheil M. Aval, and Qualified Medical Examiner Dr. Daphna Slonim, without consideration of whether it is valid under the law (i.e. as explained in Escobedo) or not. With regard to apportionment under LC 4663, I have considered the opinions of Agreed Medical Examiner Dr. James F. Lineback, Qualified Medical Examiner Soheil M. Aval, and Qualified Medical Examiner Dr. Daphna Slonim and the impairments and the physical and emotional mental industrial functional losses directly caused by the industrial injury that they have discussed. If that non-industrial apportionment is found to be legally valid, then in my opinion the applicant has a 100% permanent disability as a direct result of the industrial injury.

CONCLUSION:

It is with the above understanding that this report is written to determine the effects of the industrial related impairments on Mr. Doran and his amenability to vocational rehabilitation, therefore, sustain gainful employment and compete within the Open Labor Market.

From a vocational perspective, the fact that an applicant may have multiple impairments have an overlapping effect on an injured worker ability to compete with in the open labor market or whether separate injuries would have a "synergistic" effect on the individual capacity to perform a within the open labor market. If an applicant has a cervical industrial injury and he has heart impairment the cervical industrial impairments does not make heart impairment any better. In fact, in vocational work it is most likely that if the injured worker has a cervical and a heart injury the degree of the opportunity for employment for the injured worked in the open labor market is lessened because the disabilities in each body part effect the overall functioning of the

injured worker.

This is exclusive of the other medical issues such as drug interactions, which affect the ability of a person to comprehend, work at a consistent pace, reliability, productivity and concentration. In addition, this is a separate matter of the effects of person's ability to conduct their basic Activities of Daily Living (ADL) such as such as showering, dressing, eating, and toileting and their possible need for home health care assistance.

Per Labor Code 4662, factors that can be taken into consideration when rebutting a person employability within the open labor market are functional limitations, such as the need to take frequents breaks, the effects of pain and the effects that the prescribed industrial related medications have on a person's stamina and energy levels. This also pertains to a person's ability to stay on task, the effect of that age has on the injured worker's ability to be amendable to be retrained considering their physical or emotional limitations, and the lack of transferable skills that a person has that would affect a person's ability to be retrained.

The combined value chart (CVC) is a mathematical manner that which prevents an individual from achieving a 100% impairment. This is because if a person that is 100% impaired is 100% in performing their ADL which would assume the person is dead. However, under California Case Law the CVC is rebuttable. *Athen Administrators v. WCAB (Kite)* (W-D 2013) 78 Cal. CompCases 2013 *Los Angeles County Metropolitan Transit Authority v. WCAB (LaCount)* (W-D 2015) 80 Cal Comp. Cases 470.

I have had the opportunity to have an interview with Mr. Doran on April 13, 2017 and review all medical reports that were provided to me by his applicant attorney. Mr. Doran had a steady industrial history, he enjoyed his 4 - year career as a Plumber for Benedict and Benedict Plumbing and commented on how prior to his industrial injury he was independent and enjoyed participating in physical activities such as working, fishing, golfing, and doing woodwork. These are some of the things Mr. Doran isn't able to do because of his physical limitations caused by his industrial injury.

Since his injury, Mr. Doran has difficulties conducting activities of daily living such as driving, shopping, cleaning, and cooking and requires constant assistance from his girlfriend and has no home healthcare. In addition, due to his industrial injury, he has chronic pain caused by impairments and he experiences loss of concentration, memory difficulties, low energy levels, sadness, and agitation on a constant basis. During our meeting, Mr. Doran expressed that since his industrial injury he is in constant pain and is only able to sit for 45 minutes then he needs to stand up. Mr. Doran noted he could only stand for 5 minutes with support. Mr. Doran expressed he can walk very slowly for only 5 minutes for about 100 yards. Since his industrial injury Mr. Doran has had 1 spinal cord stimulator. Qualified Medical Examiner Dr. Soheil M. Aval diagnosed Mr. Doran with right hand trauma with reported non-displaced fracture of the right thumb with possible first metacarpal fracture per initial medical records; subsequent right hand sympathetically mediated pain, most consistent with chronic regional pain syndrome; mild right carpal tunnel syndrome, per electrodiagnostic evaluation of January 15, 2013; and mild left-hand strain, secondary to overcompensation. Dr. Aval reported Mr. Doran is precluded from activities of repetitive or forceful gripping, fine manipulation, torquing, and heavy lifting with the right upper extremity. Qualified Medical Examiner in Psychiatry Dr. Slonim indicated Mr. Doran should avoid stresses at work.

Since his industrial injury when showering Mr. Doran requires the assistance from his girlfriend. Because of his physical limitations caused by his industrial injury Mr. Doran has difficulty with dressing, he notes he needs assistance from his girlfriend with buttons, ties, and zippers. Mr. Doran mentioned it has become very difficult for him to accomplish everyday tasks and uses a right-hand wrist brace. Qualified Medical Examiner Dr. Soheil M. Aval expressed in terms of self-care activities, Mr. Doran relates moderate difficulties with brushing and washing his hair in addition to bathing and showering and brushing his teeth. Dr. Aval mentioned Mr. Doran has moderate to severe difficulty with preparing meals. Dr. Aval reported Mr. Doran notes increased symptomatology and difficulty with activities of heavy lifting. Dr. Aval noted Mr. Doran is unable to lift or carry even a gallon of milk. He notes moderate symptomatology and difficulty with bending and twisting his neck, bending and twisting his back, lifting his arms overhead,

typing and writing. Dr. Aval stated Mr. Doran is unable to push or pull. Dr. Aval indicated Mr. Doran has moderate to severe difficulty with kneeling, squatting, crawling, climbing. Dr. Aval commented that clinical examination of the right wrist and hand reveals diffuse swelling of the entire right hand with allodynia. There is hypesthesia about the entire right hand with sensory deficit, grade 4/5, about the tips of all digits on the right hand. According to Dr. Aval, Mr. Doran has grip loss secondary to pain with attempts at grasping. There is abnormal/cooler temperature about the right hand with normal sweating. Per Dr. Aval, there is decreased range of motion of the right thumb. Regarding the left hand and wrist, clinical examination is essentially negative. Dr. Aval expressed although there is some strain due to overcompensation, there is no obvious impairment resulting from that. Dr. Aval mentioned Mr. Doran has lost significant function of the right hand as a result of this injury, approximately 50%.

Agreed Medical Examiner in Internal Medicine Dr. James F. Lineback diagnosed Mr. Doran with sleep disorder (insomnia); chronic constipation; adult onset diabetes mellitus; hypertension; resting tremor; shortness of breath; anal fistula; right hand pain; reflex sympathetic dystrophy; status post spinal cord stimulator implantation; status post crush injury, right hand; complex regional pain syndrome; positive family history of hypertension; and erectile dysfunction. Dr. Lineback expressed chronic pain can be a major source of insomnia. Dr. Lineback mentioned that based on this fact pattern, it is medically probable that Mr. Doran's right upper extremity symptoms resulting from his crush injury to his right hand in 2012 is the proximate cause of his sleep disorder. Dr. Lineback noted several articles in the medical literature have demonstrated that chronic pain (a source of physiologic stress) may cause and/or aggravate hypertension. Dr. Lineback reported since there is no evidence of any pre-existing hypertension before Mr. Doran's 2012 industrial injury, it is reasonably medical probable that his hypertension is a direct result of the chronic pain resulting from his industrial injury to his right hand. Therefore, per Dr. Lineback, his hypertension should be considered job related and should be treated on an industrial basis. Dr. Lineback reported Mr. Doran's chronic pain required treatment with a narcotic analgesic, Norco. According to Dr. Lineback, one of the primary ingredients of Norco is hydrocodone, which is a form of codeine and a known narcotic analgesic. Unfortunately, one of the major side-effects of narcotic analgesics is constipation. Dr. Lineback noted unfortunately,

chronic constipation may cause an anal fistula which is basically a connection between the rectum and the perirectal skin. Since chronic constipation is a major cause of anal fistula, it is medically probable that this patient developed his anal fistula as a result of the chronic constipation that in turn resulted from the chronic use of narcotic analgesics necessitated for his crush injury to his right hand. Dr. Lineback indicated, therefore, Mr. Doran's constipation and his anal fistula should be considered job related and should be treated on an industrial basis.

Agreed Medical Examiner in Internal Medicine Dr. James F. Lineback expressed Mr. Doran fits the criteria for Class 1 (3%) impairment of the whole person as per the AMA Guidelines pertaining to sleep disorders. Dr. Lineback reported Mr. Doran fits the criteria for Class 1 (5%) impairment of the whole person as per the AMA Guidelines pertaining to hypertension. According to Dr. Lineback, Mr. Doran now fits the criteria for Class 1 (7%) impairment of the whole person as per the AMA Guidelines pertaining to his anal fistula and constipation.

Because of his industrial injury, Mr. Doran has difficulty with sleeping, he commented he sleeps for 4 hours per night. Mr. Doran expressed concern and was distraught about not being able to work, be independent and support himself financially. Since his industrial injury, Mr. Doran feels he has lost his livelihood, feels depressed, frustrated, and sad. Qualified Medical Examiner Dr. Daphna Slonim diagnosed Mr. Doran with major depression, single episode, severe; anxiety disorder NOS; psychological factors affecting medical condition; insomnia due to orthopedic pain; insomnia due to Axis I diagnoses; rule out: pain Disorder with both psychological factors and a medical condition. According to Dr. Slonim Mr. Doran has a current GAF score of 55, this is equivalent to 23% WPI. Dr. Slonim expressed subjective factors of disability of pain in upper extremities, pain in anal area, depression, anxiety, worries tension, nervousness irritability, anhedonia, headaches, weakness, fatigue, lack of energy, loss of self-confidence, lack of motivation, guilt feelings, difficulty swallowing, choking feelings, nightmares, suicidal ideation, fear of being left alone/traffic/crowds. In regards to objective factors of disability Dr. Slonim noted Mr. Doran being socially withdrawn, impaired sleep, indecisiveness, not functioning in hobbies and in the household, impaired concentration and memory, avoiding driving the freeway.

Because of the physical limitations caused by his industrial injury Mr. Doran expressed he can't function 5 days out of a 5-day work week. Because of the prescribed medication Mr. Doran is now taking he noted he experiences problems with memory at times. Qualified Medical Examiner Dr. Soheil M. Aval apportioned 100% of Mr. Doran's impairment is due to the injury to July 11, 2012. Dr. Aval doesn't see evidence of other contributing factors to his impairment. Qualified Medical Examiner Dr. James F. Lineback indicated 100% of Mr. Doran's disability with respect to his sleep disorder should be apportioned to industrial factors. There is no evidence of any nonindustrial factors playing a role in his insomnia. According to Dr. Lineback both of Mr. Doran's parents have a history of hypertension. Therefore, per Dr. Lineback 25% of his disability with respect to his hypertension should be apportioned to his nonindustrial family history, and the remaining 75% of his disability with respect to his hypertension should be apportioned to industrial factors. Dr. Lineback indicated there is no evidence that Mr. Doran had any nonindustrial risk factors for anal fistula or constipation. Dr. Lineback commented 100% of Mr. Doran's disability with respect to his anal fistula and his constipation should be apportioned to industrial factors. Qualified Medical Examiner in Psychology Dr. Daphna Slonim commented 20% is apportioned to pre-existing and non-industrial factors, 20% is a result of financial worries, and 60% is apportioned to the industrial injury of 07/11/2012.

In addition, from an employment perspective as an employment specialist, each body part or impairment under the CVC gets compacted by the use of the Combined Value Chart. However, in reality in the employment field an injury to an arm does not make an injury to a leg less valuable than the injury to the leg standing alone. Rather multiple injuries in the "real" labor market should not be compacted but should be added together to determine an overall disability or impairment. A worker with multiple body parts or organ systems that are "injured" or have an "impairment" assigned to them are greater disadvantage of "real world" work because of the synergistic effect of one injured body part on the other. This problem is also compounded by the effects of medication and the injuries themselves on what is called "pace" and "persistence" Which is the ability of a person to maintain sufficient attention and focus to complete a given task in a reasonable amount of time which is necessary to be productive and maintain

employment. When a vocational expert considers these matters together, the sum is always greater than the additional parts. The real test is not some “mythical “or” potential “job but real placement in the real world and see what the real loss of earning capacity is. Therefore, in the “Real World” Mr. Doran with his multiple impairments would be unable to sustain productive and competitive gainful employment and therefore, he is unable to compete with in the open labor market and does not have any future earning capacity.

I was asked as a vocational expert to determine if Mr. Doran is able to return to work in the current labor market. After careful review and consideration of Mr. Doran’s physical and emotional work limitations, dosage of medications that he is currently taking and its side effects, and his transferable skills, determined by McCroskey and Volcano 16.0 it is my professional opinion that based on his industrial related impairment and his industrial physical limitations that were provided in the medical reports of Agreed Medical Examiner Dr. James F. Lineback, Qualified Medical Examiner Soheil M. Aval, and Qualified Medical Examiner Dr. Daphna Slonim. Mr. Doran is not amenable to vocational rehabilitation and is not able to sustain gainful employment and therefore, is not able to compete in the open labor market and as result of his industrial related impairments provided by considering his preinjury capacity and abilities, he has at present no consistent and stable future earning capacity.

Declaration

No person, other than the vocational expert signing the report, has participated in the nonclerical preparation of the report, including all of the following: (i) taking a history from the employee; (ii) reviewing and summarizing medical and/or non-medical records; and (iii) composing and drafting the conclusions of the report.

I declare under penalty of perjury in the County of Los Angeles 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. In accordance with Labor Code Section 5703 (a) (2) there has not been a violation of Labor Code 139.32 and the contents of the report are true and correct to the best of my knowledge. This statement is made under penalty of perjury.



Laura M. Wilson, MBA
Bilingual Vocational Expert

Re: Daniel Doran
D.O.I.: 07/11/2012
D.O.B.: 06/04/1966
Employer: Benedict & Benedict Plumbing
Claim #: 05814232
WCAB CASE No.: ADJ8760713

862381030 Plumber

Assembles, installs, and repairs pipes, fittings, and fixtures of heating, water, and drainage systems, according to specifications and plumbing codes: Studies building plans and working drawings to determine work aids required and sequence of installations. Inspects structure to ascertain obstructions to be avoided to prevent weakening of structure resulting from installation of pipe. Locates and marks position of pipe and pipe connections and passage holes for pipes in walls and floors, using ruler, spirit level, and plumb bob. Cuts openings in walls and floors to accommodate pipe and pipe fittings, using hand tools and power tools. Cuts and threads pipe, using pipe cutters, cutting torch, and pipe-threading machine. Bends pipe to required angle by use of pipe-bending machine or by placing pipe over block and bending it by hand. Assembles and installs valves, pipe fittings, and pipes composed of metals, such as iron, steel, brass, and lead, and nonmetals, such as glass, vitrified clay, and plastic, using hand tools and power tools. Joins pipes by use of screws, bolts, fittings, solder, plastic solvent, and caulks joints. Fills pipe system with water or air and reads pressure gauges to determine whether system is leaking. Installs and repairs plumbing fixtures, such as sinks, commodes, bathtubs, water heaters, hot water tanks, garbage disposal units, dishwashers, and water softeners. Repairs and maintains plumbing by replacing washers in leaky faucets, mending burst pipes, and opening clogged drains. May weld holding fixtures to steel structural members. When specializing in maintenance and repair of heating, water, and drainage systems in industrial or commercial establishments, is designated Plumber, Maintenance (any industry).

TRANSFERABLE SKILLS (* = Increasingly Probable as Job Tenure Ensues)

1. Repairs and maintains plumbing by replacing defective washers, replacing or mending broken pipes, and opening clogged drains.
2. Assembles pipe sections, tubing and fittings, using screws, bolts, solder, plastic solvent, and caulking.
3. Installs pipe assemblies, fittings, valves, and fixtures, such as sinks, toilets and tubs, using hand and power tools.
4. Studies building plans and inspects structure to determine required materials and equipment and sequence of pipe installations.
5. Cuts opening in structures to accommodate pipe and pipe fittings, using hand and power tools.
6. Locates and marks position of pipe installations and passage holes in structures, using measuring instruments, such as ruler and level.
7. Cuts, threads, and bends pipe to required angle, using pipe cutters, pipe-threading machine, and pipe bending machine.
8. Fills pipes or plumbing fixtures with water or air and observes pressure gauges to detect

- and locate leaks.
- * 9. Directs workers engaged in pipe cutting and preassembly and installation of plumbing systems and components.

JOB DIFFICULTY, TRAINING TIME, INTERESTS AND VOCATIONAL PERSONALITY

VQ: 117.55
 SVP: 7: 2 to 4 Years, Skilled
 Holland Type: 1: Realistic
 VIPR Type: 07 - ISTP

LABOR MARKET SURVEY PROJECTIONS FOR THIS JOB IN THIS GEOLOCATION

GEOLOCATION LINK RELATIVES

Primary GeoLocation: California
 Secondary GeoLocation: Los Angeles
 Year of Interest: 2016
 US Wage Inflation Rate (Since 2001): 1.2137
 Earning Capacity Link Relative (ECLR): 1.1768

OCCUPATIONAL DENSITY EXPECTANCIES FOR THIS JOB IN THIS GEOLOCATION

Current Employment: 3508 (%RSE = 2.3%)
 Yearly Openings: 1139 (%RSE = 2.3%)

EARNING CAPACITY ESTIMATES FOR THIS JOB IN THIS GEOLOCATION

Job Tenure	%ile	Hourly Rate	Annual Pay	(SEe)
Average:	(Mean)	30.54	63524.08	1.30
1st Year:	10%ile	16.62	34566.02	0.93
2-3 Years:	25%ile	21.55	44825.84	1.10
4-6 Years:	50%ile	28.66	59607.74	1.32
8-12 Years:	75%ile	37.68	78372.81	1.67
16-24 Years:	90%ile	48.73	101362.85	2.14

Report 4: DOT Title Matches by Occupational Diversity & Density x SVP

BASIS: Vocational Diagnosis and Assessment of Residual Employability (VDARE) Residual Employability Profile (REP) Evaluative Data

Primary GeoLocation: California
 Secondary GeoLocation: Los Angeles
 Year: 2016

Openings Cutoff: 1
 File Name: \VolcanoData\JobsDOT.rtf
 S Expectancies
 V Yearly Current
 DOT Code DOT Title (OccDiversity) P Openings Employed

LMA R4: LABOR MARKET ACCESS Occupational Diversity & Density Measures
BASIS: Vocational Diagnosis and Assessment of Residual Employability
(VDARE) Residual Employability Profile (REP) Evaluative Data
Primary GeoLocation: California
Secondary GeoLocation: Los Angeles
Year: 2016
Openings Cutoff: 1

1) VDARE REP LABOR MARKET ACCESS to DOT Title Matches

Available DOT Titles:	12972
Accessible DOT Titles:	0
* Percent Relative Standard Error of DOT Title Matches:	2.66%
Accessible Titles as a Percent of Available Titles:	0.00

2) VDARE REP LABOR MARKET ACCESS to Expected Yearly Openings

Available Yearly Openings:	978269
Accessible Yearly Openings:	0
* Percent Relative Standard Error of Yearly Openings:	2.26%
Accessible Openings as a Percent of Available Openings:	0.00

3) VDARE REP LABOR MARKET ACCESS to Expected Current Employment

Available Current Employment:	3013883
Accessible Current Employment:	0
* Percent Relative Standard Error of Current Employment:	2.26%
Accessible Employment as a Percent of Available Employment:	0.00

MEDICAL REVIEW

Re: Daniel Doran
D.O.I.: 07/11/2012
D.O.B.: 06/04/1966
Employer: Benedict & Benedict Plumbing
Claim #: 05814232
WCAB CASE No.: ADJ8760713

MEDICAL RECORDS REVIEWED:

1. James F. Lineback, M.D. – 12/15/2016
2. Soheil M. Aval, M.D. – 06/30/2015
3. Daphna Slonim, M.D. – 06/21/2016

JAMES F. LINEBACK, M.D.

December 15, 2016

INTERNAL MEDICINE AGREED MEDICAL EVALUATION

CURRENT MEDICATIONS:

1. Metformin
2. Glipizide
3. Lisinopril
4. Gabapentin
5. Elavil

DIAGNOSIS:

1. Sleep disorder (insomnia).
7. Chronic constipation.
3. Adult onset diabetes mellitus.
4. Hypertension.
5. Resting tremor.
6. Shortness of breath.
7. Anal fistula.
8. Right hand pain.
9. Reflex sympathetic dystrophy.
10. Status post spinal cord stimulator implantation.
11. Status post crush injury, right hand.
- P. Complex regional pain syndrome.
13. Positive family history of hypertension.
14. Erectile dysfunction.

STATUS:

Permanent and Stationary.

DISCUSSION:

In summary, this middle-aged male has carried a diagnosis of diabetes since mid-2005. His blood sugar is currently reasonably well controlled on two diabetes medications. He sustained a crush injury to his right hand in 2012 that eventually required treatment with narcotic analgesics. The patient developed chronic constipation and subsequently an anal fistula. His blood pressure was noted to be elevated in 2015, at which time a diagnosis of hypertension was made. At this time, his blood pressure reasonably well controlled on a single antihypertensive agent. The patient subsequently developed sleep disorder (insomnia) as a result of his orthopedic pain. His sleep is partially improved after treatment with Elavil. The patient continues to experience erectile dysfunction, right upper extremity pain, and has also developed a left upper extremity resting tremor.

As stated previously, this patient's diabetes was diagnosed prior to the time of his employment with Benedict Plumbing Company. Therefore, his diabetes represents a pre-existing condition and should be treated on a nonindustrial basis. There is no medical evidence at this time that his diabetes has been aggravated or accelerated as a result of this injury.

The patient's erectile dysfunction has apparently been a problem since 2015. It is unclear as to the precise etiology of his erectile dysfunction at this time. I would highly recommend the patient be referred to an urologist for further comment regarding the etiology of his erectile dysfunction.

There is no evidence in these medical records that the patient had any prior history of a sleep disorder before his 2012 industrial injury. At this time, he sleeps approximately four hours per night and experiences over one hour latency to fall asleep. He states the following day, he is tired, though does not sleep during the day.

Certainly, chronic pain can be a major source of insomnia. Based on this fact pattern, it is medically probable that this patient's right upper extremity symptoms resulting from his crush injury to his right hand in 2012 is the proximate cause of his sleep disorder.

Therefore, his insomnia should be considered job related and should be treated on an industrial basis.

There is no evidence this patient had any prior history of hypertension before his 2012 industrial injury. In 2015, his blood pressure was noted to be elevated and since that time, he has required treatment with a single antihypertensive medication.

Hypertension is a rather common cardiovascular disorder that involves an elevation of blood pressure that predisposes these patients to premature atherosclerosis. The pathophysiology of hypertension involves a hyperactive sympathetic nervous system that stimulates the heart to beat faster and more forcefully. In addition, stress hormones, such as epinephrine and norepinephrine cause not only vasoconstriction, but also increase in circulating blood volume, both of which serve to increase blood pressure.

Several articles in the medical literature have demonstrated that chronic pain (a source of physiologic stress) may cause and/or aggravate hypertension. Since there is no evidence of any pre-existing hypertension before this patient's 2012 industrial injury, it is reasonably medical probable that his hypertension is a direct result of the chronic pain resulting from his industrial injury to his right hand. Therefore, his hypertension should be considered job related and should be treated on an industrial basis.

The patient has experienced symptoms of shortness of breath over the last several years.

It should be noted that the medical records show that he smoked between one-half and one pack of cigarettes per day for approximately 35 years. Therefore, it is medically probable that his shortness of breath is more likely related to chronic obstructive lung disease secondary to his cigarette smoking. There is no evidence in these medical records that exposure to any type of dusts, fumes or chemicals in an industrial setting caused or aggravated his pulmonary disease. Therefore, his respiratory symptoms should be considered nonindustrial and should be treated on a nonindustrial basis.

As stated previously, this patient's chronic pain required treatment with a narcotic analgesic, Norco. One of the primary ingredients of Norco is hydrocodone, which is a form of codeine and a known narcotic analgesic. Unfortunately, one of the major side-effects of narcotic analgesics is constipation. Unfortunately, chronic constipation may cause an anal fistula which is basically a connection between the rectum and the perirectal skin. Since chronic constipation is a major cause of anal fistula, it is medically probable that this patient developed his anal fistula as a result of the chronic constipation that in turn resulted from the chronic use of narcotic analgesics necessitated for his crush injury to his right hand. Therefore, his constipation and his anal fistula should be considered job related and should be treated on an industrial basis.

RESTRICTIONS:

This patient fits the criteria for Class 1 (3%) impairment of the whole person as per the AMA Guidelines pertaining to sleep disorders. He also fits the criteria for Class 1 (5%) impairment of the whole person as per the AMA Guidelines pertaining to hypertension.

He now fits the criteria for Class 1 (7%) impairment of the whole person as per the AMA Guidelines pertaining to his anal fistula and constipation.

APPORTIONMENT:

One hundred percent of this patient's disability with respect to his sleep disorder should be apportioned to industrial factors. There is no evidence of any nonindustrial factors playing a role in his insomnia.

As stated previously, both of this patient's parents have a history of hypertension.

Therefore, 25% of his disability with respect to his hypertension should be apportioned to his nonindustrial family history. The remaining 75% of his disability with respect to his hypertension should be apportioned to industrial factors.

There is no evidence that this patient had any nonindustrial risk factors for anal fistula or constipation. Therefore, 100% of his disability with respect to his anal fistula and his constipation should be apportioned to industrial factors.

FUTURE MEDICAL CARE:

As stated previously, this patient's diabetes represents a pre-existing condition and should be treated on a nonindustrial basis. I would also recommend the patient be referred to an urologist for further workup of his erectile dysfunction. In addition, I am recommending the patient be referred to a neurologist for evaluation of his left upper extremity resting tremor to rule out Parkinson's disease. Since it is unclear as to the etiology of that symptom, that evaluation should be provided on an industrial basis.

The patient's sleep disorder will require treatment, preferably by either a sleep specialist or a general internist. That treatment should be provided on an industrial basis. Similarly, the patient should be provided with access to treatment by a general internist for treatment of his industrially related hypertension. Any and all medications for his hypertension, as well as any further diagnostic testing should be provided on an industrial basis.

As stated previously, the patient's shortness of breath is most likely related to his nonindustrial smoking habit. Therefore, any further diagnostic testing or treatment for his respiratory complaints should proceed on a nonindustrial basis.

This patient should be provided with access to treatment by a general internist for treatment of his constipation and should also be evaluated by a colon-rectal surgeon for his anal fistula. Since it is medically probable that his constipation and his anal fistula is related to his industrial injury, treatment for both of those problems should proceed on an industrial basis. If, indeed, the patient's anal fistula requires surgical treatment, that treatment should be provided on an industrial basis. I am recommending the patient's constipation be treated with metoclopramide, as well as a stool softener, such as Metamucil.

WORK ACCOMODATIONS/ VOUCHER:

This issue would be addressed by an orthopedist since the patient's right hand remains his primary complaint.

SOHEIL M. AVAL, M.D.
June 30, 2015

PANEL QUALIFIED MEDICAL EVALUATOR

DIAGNOSTIC STUDIES:

Mr. Doran has undergone an MR arthrogram of the right hand in addition to an EMG/NCV study of the right hand.

WORK LOSS HISTORY:

Following the date of injury, Mr. Doran worked for one day and has not resumed work activities. Currently, he does not feel capable of working regular duties or modified duties.

CURRENT COMPLAINTS:

Mr. Doran relates constant pain to the RIGHT WRIST, HAND and THUMB, which radiates to the right forearm with a burning sensation in addition to pins and needles sensation to the right hand, wrist and forearm, with sharp pain to the back of the hand. He also notes numbness and tingling to the right hand and all fingers. His pain increases with usage of the right hand, carrying, lifting, and writing. Symptoms are relieved with the use of a stimulator, medication and rest. The pain does awaken him from sleep.

The LEFT WRIST and HAND pain is intermittent and localized with numbness and tingling to the left hand and fingers.

Mr. Doran relates difficulty sleeping in addition to anxiety and depression. He also describes stomach upset, difficulty with sleeping and difficulty with sexual functions.

ACTIVITIES OF DAILY LIVING:

In terms of self-care activities, Mr. Doran relates moderate difficulties with brushing and washing his hair in addition to bathing and showering and brushing his teeth. He has moderate to severe difficulty with preparing meals. He notes increased symptomatology and difficulty with activities of heavy lifting. He is unable to lift or carry even a gallon of milk. He notes moderate symptomatology and difficulty with bending and twisting his neck, bending and twisting his back, lifting his arms overhead, typing and writing. He is unable to push or pull. He has moderate to severe difficulty with kneeling, squatting, crawling, climbing. He has no difficulties with sitting. He has slight difficulty with standing and walking.

The patient is able to make a complete fist. All fingertips touch the distal palmar crease in both hands, with the thumbs touching the fifth metacarpal heel in the palm, even though Mr. Doran has difficulty with movement and usage of the hand, a lot of this is guarding.

With encouragement and with relaxation of the hand, I am able to get full extension of all the digits. There is cooler temperature but normal sweating of the right wrist and hand and both hands are equally callused. It is noted that the patient also uses his right hand to write and fill out the paperwork today.

DIAGNOSES:

1. Right hand trauma with reported non-displaced fracture of the right thumb with possible first metacarpal fracture per initial medical records.
2. Subsequent right hand sympathetically mediated pain, most consistent with chronic

regional pain syndrome.

3. Mild right carpal tunnel syndrome, per electrodiagnostic evaluation of January 15, 2013.
4. Mild left-hand strain, secondary to overcompensation.

DISCUSSION:

Daniel Doran sustained an injury to his right forearm, wrist and hand on July 11, 2012, when a wall fell on him. He received initial treatment with his right thumb with application of a hard cast, which he wore until late September 2012, which was followed by provision of a removable hard cast for the next month or two. Mr. Doran has been treating with Dr. Haronian and Dr. Kohan, pain management specialist, to the current date for his chronic regional pain syndrome. He has undergone ganglion injections with a trial of a spinal cord stimulator in May 2014, with good success, and as such, the spinal cord stimulator was permanently implanted in August 2014, which has provided benefit to the current date. Mr. Doran has also developed left wrist and hand complaints due to favoring the right wrist and hand, which is a common mechanism of injury. It was thought by the patient's treating physicians that the left wrist and hand also suffered from chronic regional pain syndrome, but I do not see this on my examination. Mr. Doran presents for Orthopedic Panel Qualified Medical Evaluation.

At this time, Mr. Doran can be considered to have reached Maximal Medical Improvement as further formal medical treatment will not change his impairment.

Clinical examination of the right wrist and hand reveals diffuse swelling of the entire right hand with allodynia. There is hypesthesia about the entire right hand with sensory deficit, grade 4/5, about the tips of all digits on the right hand. Mr. Doran has grip loss secondary to pain with attempts at grasping. There is abnormal/cooler temperature about the right hand with normal sweating. There is decreased range of motion of the right thumb. Regarding the left hand and wrist, clinical examination is essentially negative. Although there is some strain due to overcompensation, there is no obvious impairment resulting from that.

Mr. Doran has received appropriate treatment for his injury. Unfortunately, Mr. Doran developed chronic regional pain syndrome in the right upper extremity, but currently he has good relief with the permanent spinal cord stimulator. Dr. Kohan also is continuing to refill his Neurontin and Elavil, which is appropriate for this condition. Mr. Doran will need to remain under the care of Dr. Kohan for medication and future injections.

The electrodiagnostic evaluation of January 15, 2013, revealed mild carpal tunnel syndrome, which is not supported by my clinical examination. I definitely do not recommend surgery given the patient's sympathetically mediated pain. If the patient were to undergo carpal tunnel release surgery, most likely his symptoms would significantly worsen.

STATUS:

The patient has reached MAXIMAL MEDICAL IMPROVEMENT in accordance with the AMA Guides to the Evaluation of Permanent Impairment (5th Edition).

AMA IMPAIRMENT ANALYSIS:

Today's examination confirms a diagnosis of chronic regional pain syndrome (CRPS).

Even though Mr. Doran has difficulty with movement and usage of the hand, a lot of this is guarding. As stated above, with encouragement and with relaxation of the hand, I am able to get full passive extension of all the digits with the ability to make a fist. However, Mr. Doran has lost significant function of the right hand as a result of this injury, approximately 50%. I am not estimating a higher loss as Mr. Doran does have full extension and can make a fist and was seen to write and fill out his paperwork today, supporting usage of the hand. Mr. Doran has significant interruption in ability to perform activities of daily living.

Per Chapter 13, Section 13.8, Table 13-22, it is my medical opinion that Mr. Doran meets the criteria for Class III of the dominant extremity as he can use the involved extremity, but has difficulty with self-care activities.

25% Whole Person Impairment.

FINAL AMA IMPAIRMENT RATING:

Right Wrist Whole Person Impairment 25%

RECOMMENDED WORK RESTRICTIONS:

Mr. Doran is precluded from activities of repetitive or forceful gripping, fine manipulation, torquing, and heavy lifting with the right upper extremity. The left upper extremity does not require work restrictions.

ABILITY TO RETURN TO WORK:

Based on the above, permanent work restrictions are indicated. Should the patient's employer be unable to accommodate these restrictions, he would be unable to return to his prior occupation.

He is a Qualified Injured Worker.

FUTURE MEDICAL CARE:

Mr. Doran should be allowed future medical care which might include orthopedic consultations at times of flare-ups with a regimen of physical therapy and/or acupuncture.

Updated diagnostic studies should be allowed. Mr. Doran should remain under the care of Dr. Kohan, his pain management specialist, for provision of various injections and monitoring, adjusting, and dispensation of medications. The spinal cord stimulator should be monitored.

CAUSATION AND APPORTIONMENT:

Daniel Doran sustained an injury on July 11, 2012, to his right upper extremity when a wall fell on him. This injury is documented by the medical records.

100% of the patient's impairment is due to the injury to July 11, 2012. I do not see evidence of other contributing factors to his impairment. My current radiographs of the hands today do not show any degenerative changes.

DAPHNA SLONIM, M.D.

July 18, 2016

PSYCHIATRIC OME REPORT

MEDICATIONS:

Neurontin 800 mg

Elavil 50 mg

Metformin 1000 mg

Glipizide 5 mg

CLINICAL IMPRESSION:

In the mental status examination conducted on 06/21/2016, Mr. Doran was seen as a well-developed, balding, bearded, well-nourished, 50-year-old Caucasian male who appeared to be his stated age. He was casually dressed.

He wore a brace on his right wrist. His left upper and lower extremities were shaking constantly. His left side of the mouth seemed paralyzed. He had to change positions and stand up at times.

There was nothing suggesting malingering.

DIAGNOSTIC IMPRESSION:

Diagnoses of conversion, pain, and hypochondriacal disorders and of psychophysiological disorders are the most common with this pattern. Some of these patients were seen as having depressive disorders with a strong somatic emphasis.

However, the clinical and diagnostic picture appears more mixed and severe than usual. It should be re-emphasized that his generally guarded and self-favorable responding together with his understatement of his problems and his idealized self-presentation make his profile more ambiguous than most.

DIAGNOSIS:

Use of the DSM-IV-TR multi-axial classification ensures that attention is given to certain types of disorders, aspects of the environment, and areas of functioning that might be overlooked if the focus were on assessing a single presenting problem.

There are five axes in the DSM-IV-TR multi-axial classification. The first three axes constitute the official diagnostic assessment.

AXIS I:

1. 296.23 Major Depression, Single Episode, Severe.
2. 300.00 Anxiety Disorder NOS.
3. 316.00 Psychological Factors affecting medical condition.
4. 780.52 Insomnia due to orthopedic pain/
5. 307.42 Insomnia Due to Axis I Diagnoses.
6. Rule out: Pain Disorder with both psychological factors and a medical condition.

AXIS II:

Immature, histrionic, and Avoidant personality traits.

AXIS III:

1. RSD, right wrist and hand.
2. Musculoskeletal complaints.
3. Cardiovascular complaints.
4. Gastrointestinal complaints.
5. Headaches.
6. High blood pressure, by history, controlled with medications.
7. Diabetes, Type II – controlled with medications.
8. Neurological problems.

AXIS IV:

Occupational problems.

Problems with Primary Support Group

Economic Problems

AXIS V:

Current GAF 55

This is equivalent to 23% WPI.

SUMMARY AND DISCUSSION:

Mr. Doran is a 50-year-old Caucasian male who was employed as a plumber by Benedict & Benedict Plumbing Company from 2009 until 7/11/2012, when he was injured on the job. While he was cutting through a wall, a chunk of the wall fell on Mr. Doran's right hand. He sustained an open wound to his right thumb. He cleaned the wound and put tape on it. He was in a lot of pain.

DISABILITY STATUS:

At no time ever was Mr. Doran temporarily totally disabled purely from a psychiatric point of view. At this time, his condition is regarded as permanent and stationary with moderate psychiatric disability.

CAUSATION:

Industrial causation is preponderant to all other causes combined in the psychiatric disability of Mr. Doran. Good faith personnel action was not a substantial factor.

However, AOE/COE is a legal and not a medical decision, so I would leave it to the Trier of Fact.

APPORTIONMENT:

20% Is apportioned to pre-existing and non-industrial factors as outlined above.

20% is a result of financial worries.

60% is apportioned to the industrial injury of 07/11/2012.

RECOMMENDATION:

It is recommended to refer Mr. Doran to a proctologist for consultation to rule out industrial causation. It is probable that it resulted from his constipation which is probably a side effect of the Neurontin.

Given the fact the Neurontin may also cause Parkinson's-like shaking on the left side, which is interfering significantly with his ability to function, a neurological consultation is also recommended.

Even though Mr. Doran scored only 2 on the Epworth Sleepiness Scale, this is not a good reflection of his sleep /arousal disability.

OPINION AS TO DISABILITY RATING:

On the basis of this present psychiatric study, I believe that Mr. Doran has been vocationally disabled as a result of the above described work-related accident. He reports himself suffering from a combination of physical and emotional disabilities.

From a psychiatric viewpoint, I believe he has suffered emotional mental, psychological, and personality distresses as a direct result of the industrial injury and continued inability to work at his usual/former occupation. The combination of physical and emotional disabilities have caused him to have difficulties in functioning in his everyday world. I believe that his present disabilities are due in part, at least, to psychological factors, and in my opinion, these psychological factors are the result of the claimed accident.

It is my opinion, that the workers' Compensation rating purposes, Mr. Doran's psychological status is permanent and stationary, and is of a moderate degree of impairment.

OBJECTIVE FACTORS OF DISABILITY:

Being socially withdrawn, impaired sleep, indecisiveness, not functioning in hobbies and in the household, impaired concentration and memory, avoiding driving the freeway.

SUBJECTIVE FACTORS OF DISABILITY:

Pain in upper extremities, pain in anal area, depression, anxiety, worries tension, nervousness irritability, anhedonia, headaches, weakness, fatigue, lack of energy, loss of self-confidence, lack of motivation, guilt feelings, difficulty swallowing, choking feelings, nightmares, suicidal ideation, fear of being left alone/traffic/crowds.

WORK RESTRICTIONS:

Mr. Doran should avoid stresses at work.

VOCATIONAL REHABILITATION:

This is not indicated from a psychiatric point of view.

FUTURE PSYCHIATRIC CARE:

Mr. Doran would benefit from a psychotropic medication and should be under psychiatric care once a month for at least two years.

No more psychotherapy is indicated at this time.

More intensive psychological or psychiatric care should be made available in case of deterioration in the future.

Daniel Carlos
UAN: DANIEL CARLOS MONTEREY PARK

RE: DANIEL DORAN
WCAB: ADJ8760713

215 W. POMONA BLVD. #204

MONTEREY PARK, CA. 91754
Tel (323) 597-0004 Fax (323) 287-8792

Representative for: LAURA WILSON, MBA

4903.8(d) Declaration

I declare under penalty and perjury pursuant to the laws of the State of California the foregoing is true and correct:

- (1) The services or products described in the bill for services or products were actually provided to the injured employee.**
- (2) The billing statement attached to the lien truly and accurately describes the services or products that were provided to the injured employee**

SIGNED,



Laura M. Wilson
Vocational Rehabilitation Expert Witness
11721 Whittier Blvd., Suite 413
Whittier, Ca. 90601
Tax I.D.# 46-3506827
Date: July 11, 2017