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CITY OF JACKSON, permissibly self-insured,
Adjusted by YORK RISK SERVICES GROUP, INC.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

CITY OF JACKSON, psi, adjusted by YORK RISK SERVICES GROUP, INC., Petitioner, vs. **WORKERS' COMPENSATION APPEALS BOARD OF THE STATE OF CALIFORNIA and CHRISTOPHER RICE,** Respondents.	WCAB No.: ADJ8701916 Workers' Compensation Judge Joseph Samuel

PETITION FOR WRIT OF REVIEW

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TO BE FILED IN THE COURT OF APPEAL

APP-008

COURT OF APPEAL, THIRD APPELLATE DISTRICT, DIVISION	Court of Appeal Case Number:
ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): CHARLES S. TEMPLETON, ESQ. (SBN 282454) LENAHAN, LEE, SLATER & PEARSE 1030 15TH STREET, SUITE 300 TELEPHONE NO. 916-443-1030 FAX NO. (Optional): 916-443-0869 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): CITY OF JACKSON	Superior Court Case Number: ADJ8701916 FOR COURT USE ONLY
APPELLANT/PETITIONER: CITY OF JACKSON P.S.I. adj by YORK RESPONDENT/REAL PARTY IN INTEREST: CHRISTOPHER RICE	
CERTIFICATE OF INTERESTED ENTITIES OR PERSONS (Check one): ☑ INITIAL CERTIFICATE ☐ SUPPLEMENTAL CERTIFICATE	

Notice: Please read rules 8.208 and 8.488 before completing this form. You may use this form for the initial certificate in an appeal when you file your brief or a prebriefing motion, application, or opposition to such a motion or application in the Court of Appeal, and when you file a petition for an extraordinary writ. You may also use this form as a supplemental certificate when you learn of changed or additional information that must be disclosed.

1. This form is being submitted on behalf of the following party (*name*): CITY OF JACKSON P.S.I. adj by YORK

2. a. ☐ There are no interested entities or persons that must be listed in this certificate under rule 8.208.

   b. ☑ Interested entities or persons required to be listed under rule 8.208 are as follows:

Full name of interested entity or person	Nature of interest (*Explain*):
(1) CITY OF JACKSON	DEFENDANT; PETITIONER
(2) CHRISTOPHER RICE	APPLICANT; RESPONDENT
(3) LENAHAN, ET AL.	COUNSEL FOR PETITIONER
(4) MASTAGNI, ET AL.	COUNSEL FOR RESPONDENT
(5) WCAB	COURT

☑ Continued on attachment 2.

The undersigned certifies that the above-listed persons or entities (corporations, partnerships, firms, or any other association, but not including government entities or their agencies) have either (1) an ownership interest of 10 percent or more in the party if it is an entity; or (2) a financial or other interest in the outcome of the proceeding that the justices should consider in determining whether to disqualify themselves, as defined in rule 8.208(e)(2).

Date: MARCH 16, 2015

CHARLES S. TEMPLETON
(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF PARTY OR ATTORNEY)

Form Approved for Optional Use
Judicial Council of California
APP-008 [Rev. January 1, 2009]

CERTIFICATE OF INTERESTED ENTITIES OR PERSONS

Cal. Rules of Court, rules 8.208, 8.488
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TO BE FILED IN THE COURT OF APPEAL

APP-008

COURT OF APPEAL, APPELLATE DISTRICT, DIVISION	Court of Appeal Case Number
ATTORNEY OR PARTY WITHOUT ATTORNEY *(Name, State Bar number, and address)*: (continued from page 1)	Superior Court Case Number
TELEPHONE NO FAX NO *(Optional)* E-MAIL ADDRESS *(Optional)* ATTORNEY FOR *(Name)*:	*FOR COURT USE ONLY*
APPELLANT/PETITIONER: RESPONDENT/REAL PARTY IN INTEREST:	

CERTIFICATE OF INTERESTED ENTITIES OR PERSONS

(Check one): ☐ INITIAL CERTIFICATE ☐ SUPPLEMENTAL CERTIFICATE

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1. This form is being submitted on behalf of the following party (*name*): _____

2. a. ☐ There are no interested entities or persons that must be listed in this certificate under rule 8.208.

   b. ☐ Interested entities or persons required to be listed under rule 8.208 are as follows:

Full name of interested entity or person	Nature of interest *(Explain):*
(1) YORK RISK SERVICES, INC.	ADJUSTING AGENCY FOR CITY OF JACKSON
(2)	
(3)	
(4)	
(5)	

☐ Continued on attachment 2.

The undersigned certifies that the above-listed persons or entities (corporations, partnerships, firms, or any other association, but not including government entities or their agencies) have either (1) an ownership interest of 10 percent or more in the party if it is an entity; or (2) a financial or other interest in the outcome of the proceeding that the justices should consider in determining whether to disqualify themselves, as defined in rule 8.208(e)(2).

Date: MARCH 16, 2015

CHARLES S. TEMPLETON
(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF PARTY OR ATTORNEY)

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

TABLE OF EXHIBITS AND OTHER ATTACHMENTS

APPLICATION AND STATEMENT OF GOOD CAUSE FOR ATTACHMENTS EXCEEDING 10 PAGES

Application is hereby made by Petitioner to the Presiding Justice for permission to attach exhibits and materials exceeding a combined total of 10 pages, pursuant to California Rule of Court 8.204(d). Petitioner intends to submit the documents listed on the preceding Table of Exhibits as attachments to this Petition for Writ of Review.

Respondent believes the Exhibits 1-16 are important documents in the record of this case and bear directly on the arguments in the Petition for Writ of Review, and has included them as Exhibits for ease of reference.

These exhibits and attachments exceed the 10 pages allowed by California Rule of Court 8.204(d), and it is therefore respectfully requested that these exhibits be permitted as part of this Petition for Writ of Review.

PETITION FOR WRIT OF REVIEW
TO THE HONORABLE PRESIDING JUSTICE AND TO THE HONORABLE ASSOCIATE JUSTICES OF THE COURT OF APPEAL OF THE STATE OF CALIFORNIA, THIRD APPELLATE DISTRICT

STATEMENT OF CASE

Respondent CITY OF JACKSON, P.S.I., adjusted by York Risk Services Group, Inc. (hereinafter "Petitioner"), by and through its attorney of record, hereby Petitions for Writ of Review to determine the lawfulness of the Findings of Fact and Awards with Opinion on Decision prepared by Workers' Compensation Judge Joseph Samuel, which adopted and incorporated the Opinion and Decision after Reconsideration of the Workers' Compensation Appeals Board of the State of California (hereinafter "WCAB"), in the matter of Christopher Rice v. City of Jackson p.s.i., adjusted by York Risk Services Group, Inc., ADJ # 8701916.

The decision of Judge Samuel and the WCAB determined whether apportionment of an award for permanent disability is valid under Labor Code § 4663, and more specifically whether the apportionment opinion of QME Sloane Blair was valid pursuant to the En Banc *Escobedo* case, when the QME based her apportionment opinion, in part, on Respondent's genetics.

Petitioner requests issuance of a Writ of Review for the purpose of vacating and reversing the Workers' Compensation Judge's Finding and Award dated 2/4/15, which found that pursuant to the 1/30/15 Opinion on Decision of the WCAB, the Respondent's permanent disability award is to be unapportioned, when as set forth in the paragraphs that follow, Petitioner contends the apportionment opinion of QME Sloane Blair satisfies the requirements of both Labor Code § 4663 and the En Banc *Escobedo* case

JURISDICTION AND PRAYER FOR RELIEF

In accordance with California Labor Code § 5952, Petitioner respectfully requests the issuance of a Writ of Review on one or all of the following grounds:

1. The appeals board acted without or in excess of its powers;
2. The order, decision, or award was unreasonable;
3. The order, decision, or award was not supported by substantial evidence;

(Labor Code, § 5952)

WHEREFORE, Petitioner respectfully prays:

1. That a Writ of Review issue from this Court to the WCAB, commanding it to certify fully to this Court a specified time and place for the records of this case to be provided so that the same may be inquired into and determined by this Court;
2. After review and determination by this Court, that the Findings and Award of the Workers' Compensation Judge be vacated and reversed so as to find the apportionment of QME Sloane Blair valid in accordance with Labor Code § 4663 and the En Banc *Escobedo* case, and to enter an apportioned award of permanent disability accordingly (per the DEU rating of 2/11/14).

STATEMENT OF FACTS

At the time of injury, Respondent worked for the City of Jackson as a Police Officer (for unrelated reasons Respondent has since joined a different police department). Respondent sustained a cumulative trauma injury to his cervical spine through 4/22/09. This claim was accepted, and benefits were furnished to Respondent.

Pursuant to Labor Code section 4062.2 Dr. Sloane R. Blair (hereinafter "QME Blair") was properly selected to serve as Qualified Medical Examiner to determine the level of Respondent's permanent disability. QME Blair examined Respondent on 11/7/11 and 5/4/13, and authored reports dated 11/7/11, 2/1/12, 3/21/12, 5/4/13, 7/15/13, and 9/12/13. Featured in these reports are QME Blair's summaries of Respondent's medical records (Exhibit 11, Report of QME Blair of 11/7/11 p. 2-3, Exhibit 13, Report of QME Blair of 3/21/11 p. 1-2, and Exhibit 14, Report of QME Blair of 5/4/13 p. 1-3). In addition to the history obtained through review of Respondent's medical records, QME Blair also interviewed and evaluated Respondent during a total of 67 minutes of "face-to-face time" (Exhibit 11, Report of QME Blair of 11/7/11 p.1, Exhibit 14, Report of QME Blair of 5/4/13 p.1).

After review of medical records, interview, and evaluation, QME Blair finds 25% impairment of the whole person (Exhibit 14, Report of QME Blair of 5/4/13 p.5) and finds that the causation of this impairment stems from four causal sources (Exhibit 11, Report of QME Blair of 11/7/11 p.1):

> *"(1) his work activities with the city of Jackson since his employ in 8.05; (2) his prior work activities, including the construction and scaffold activities for which he was seen in 2003 complaining of neck pain; (3) his personal injuries include the motor vehicle accident of 1998, as well as his recreational activities, for example,*

his rowing activity was sufficient to cause his ACL and meniscal injury; therefore they would likely have an impact on his cervical spine; (4) his personal history. There are twinning studies out of Minnesota and other research that indicate heritability and genetics play a significant role in the genesis of degenerative disease of the spine. This is rational, as the collagen, which is the building block of all of our tissues, and its assembly, tensile strength, and other mechanical forces are related to the DNA and genetic coding. His father was noted to have a very significant history of back problems, as well as a need for a hip replacement, which indicates degenerative issues as part of his family history. I would include in this group his brief and short history of smoking, and his diagnosis of lateral epicondylitis."

QME Blair originally concluded that apportionment should be split evenly among these four casual sources (Exhibit 11, Report of QME Blair of 11/7/11 p.1). However, following Respondent's re-evaluation and additional review of information, QME Blair amended her conclusion, stating *"I apportion 49 percent to his personal history, including genetic issues, and 17 percent each to this employment with the City of Jackson, his previous employment history, and his personal injuries"* (Exhibit 14, Report of QME Blair of 5/4/13 p.4-5).

On 12/5/13, parties presented for trial before Workers' Compensation Judge Joseph Samuel, and the predominant issue at trial was whether the apportionment conclusion of QME Blair was valid (Exhibit 1, Minutes of Hearing and Summary of Evidence from trial of 12/5/13 p. 2).

Per the allowance of Workers' Compensation Judge Joseph Samuel, (Exhibit 1, Minutes of Hearing and Summary of Evidence from trial of 12/5/13 p. 1) defendant filed a post-trial brief wherein the validity of QME Blair's apportionment conclusion was analyzed in conjunction with the controlling En Banc decision of *Escobedo v. Marshalls (2005)* 70 CCC 604 (Exhibit 3, Defendant's Post Trial Brief).

On 3/14/13, Workers' Compensation Judge Joseph Samuel entered a Findings of Fact and Award with Opinion on Decision wherein he decided, in pertinent part, that "defendant has carried its burden of showing apportionment as to 49 percent attributable to genetic factors, but not as to the other factors" (Exhibit 4, Findings of Fact and Awards With Opinion on Decision p.5). Thereafter Respondent's attorney filed a Petition for Reconsideration challenging the validity of the 49 percent apportionment (Exhibit 5, Petition for Reconsideration). Defense counsel filed an Answer thereto, arguing that the Petition for Reconsideration mischaracterized/misinterpreted QME Blair's apportionment conclusion by focusing on the analysis regarding Respondent's genetics and his father's history of back injury, and ignoring the portion of QME Blair's analysis/opinion wherein QME Blair found that Respondent himself verifiably has non-industrial degenerative disease, independent of his genetics or his father (Exhibit 6, Answer to Petition for Reconsideration).

On 4/28/14, Workers' Compensation Judge Joseph Samuel entered a Report and Recommendation on Petition for Reconsideration wherein he recommended that Respondent's Petition for Reconsideration be denied, finding that Respondent's arguments for Reconsideration were "cogently evaluated and rebutted in defendant's Answer, 3rd unnumbered page, line 24, through 6th unnumbered page, line 28½, which is incorporated herein by reference" (Exhibit 7, Answer to Petition for Reconsideration p.4).

On 6/5/14, the WCAB granted Reconsideration (Exhibit 8, Opinion and Order Granting Petition for Reconsideration), and on 1/30/15 the WCAB returned the matter to the trial level for an unapportioned award of permanent disability (Exhibit 9, Opinion and Decision After Reconsideration p. 5-6).

Workers' Compensation Judge Joseph Samuel Issued a Findings of Fact and Opinion on Decision After Reconsideration on 2/4/15, adopting

and incorporating the reasoning of the WCAB's Opinion and Decision after Reconsideration, and thus entering a Findings and Award for unapportioned permanent disability, as set forth by the DEU rating of 2/11/14 (Exhibit 10, Opinion and Order Granting Petition for Reconsideration).

From that 2/4/15 Findings of Fact and Opinion on Decision After Reconsideration, Petitioner hereby submits this timely filed Petition for Writ of Review to the Third District Court of Appeal on 3/16/15.

QUESTIONS PRESENTED FOR REVIEW

1. **Is it valid to apportion to a non-industrially caused and genetically acquired disease/condition (degenerative disc disease) when the presence of this disease/condition is confirmed via imaging of the injured worker's spine, verifiably showing that the individual worker himself has degenerative disc disease, and the QME opines that it is medically probable that such disease is causal to 49% of the workers' permanent disability?**
2. **Is such an apportionment opinion invalid if the QME explains that the origin of the verified degenerative disc disease is genetic, and notes the injured worker's family history in bolstering the conclusion that Respondent suffers from the non-industrial, genetically caused, disease/condition?**

ANSWERS IN BRIEF

1. **Yes. An apportionment opinion is valid so long as it constitutes substantial medical evidence, which in pertinent part requires that the opinion be based on relevant facts and history, is framed in terms of reasonable medical probability, and is adequately explained and not speculative. Here, QME Blair reviewed imaging of Respondent's cervical spine which verifiably shows the presence of degenerative disc disease. QME Blair goes on to explain how the presence of this degenerative disc disease is partially to blame for the disability that Respondent suffers from, and more specifically that in her medical opinion it is probable that it is directly causal to 49% of Respondent's permanent disability.**
2. **No. While it may have been impermissible for QME Blair to have cited to Respondent's family history/genetics as the sole basis for concluding**

that Respondent has degenerative disc disease and to apportion based on this conclusion alone, there is nothing impermissible about bolstering the conclusion that the injured worker has the genetically acquired disease/condition by citing to family history/genetics when the presence of the genetically acquired disease/condition is otherwise independently verified (e.g. imaging of the injured workers' spine showing degenerative disc disease).

MEMORANDUM OF POINTS AND AUTHORITIES

ARGUMENT

The WCAB has found that QME Blair did not apportionment to specific identifiable factors, and thus the opinion does not constitute substantial medical evidence. More specifically, the WCAB has found it impermissible for QME Blair to have apportioned to "genetic factors."

For the reasons below, Petitioner contends that the 49% apportionment opinion of QME Blair is valid. Contrary to the conclusions of the WCAB, QME Blair's apportionment to 'genetics' is actually apportionment for the degenerative disc disease that Respondent verifiably suffers from, as evident by X-ray and MRI radiology reports that QME Blair reviewed. While Petitioner concedes that apportionment to genetics alone would likely be impermissible, in this case Dr. Blair has not apportioned to genetics, and has instead offered family history/genetics information as an explanation of the origin of this disease at issue, and as a means to bolster the otherwise objectively verified fact (again, via X-ray and MRI radiology reports) that Respondent himself suffers from degenerative disc disease. Finally, contrary to the court's assertion, QME Blair has found, with reasonable medical probability, that the degenerative disc disease is causal to Respondent's disability, not simply to the initial

injury at issue; more specifically that degenerative disc disease is causal to 49% of Respondent's disability.

In short, the criticism and focus that Respondent's attorney has placed on this 'genetics' opinion has caused the court to lose sight of the fact that the analysis of genetics is only part of QME Blair's opinion, and is a portion that is only provided as background information and to bolster the otherwise independently verifiable fact that Respondent suffers disability due to his degenerative disc disease. Therefore, the apportionment opinion at issue does constitute substantial medical evidence, and is valid pursuant to *Escobedo*.

I. THE APPORTIONMENT OPINION OF QME BLAIR ADDRESSES CAUSATION OF PERMANENT DISABILITY, IN SATISFACTION OF *ESCOBEDO*

The requirements of apportionment under both Labor Code §4663 and *Escobedo* are well established in the prior Petitions, Answers, and Opinions (see Defendant's Post Trial Brief 12/31/13, Petition for Reconsideration 4/7/14, Answer to Petition for Reconsideration 4/14/14, and Opinion and Decision After Reconsideration 1/30/15, attached hereto as exhibits 3, 5, 6, and 9 respectively). Therefore, a reiteration of each of the specific Labor Code §4663 requirements and *Escobedo* factors, with corresponding analysis to all aspects of QME Blair's opinion, would only serve to detract from the specific contentions at issue, and waste this court's time. Instead, Petitioner's argument is focused to address the specific aspects of QME Blair's opinion that the WCAB has taken issue with and which have lead the WCAB to find that Dr. Blair's apportionment is invalid; namely the conclusion that QME Blair's 49% apportionment does not constitute substantial medical evidence as is required under the en banc *Escobedo* decision.

As the court explains on page 4 of the Opinion and Decision after Reconsideration (Exhibit 9) , in order for an apportionment opinion to be valid it must constitute substantial medical evidence, which means it must be framed in terms of reasonable medical probability, it must not be speculative, it must be based on pertinent facts, and on adequate examination and history, and it must set forth reasoning in support of its conclusions (*Escobedo v. Marshalls* (2005) 70 Cal.Comp.Cases 604, 611 (en banc).)

The court has provided three specific reasons for finding QME Blair's 49% apportionment does not satisfy these requirements for constituting substantial medical evidence:

A) Apportionment to genetic factors is impermissible because it assigns causation to genetic makeup and not to specific debilitating factors causing his permanent disability, B) Causation to genetics opens the door to apportionment to impermissible immutable factors, and C) Apportionment to genetic make-up has caused apportionment to causation of injury rather than apportionment to the extent of disability.

Each of these three reasons provided by the WCAB is addressed and refuted in the corresponding sections that follow:

A. APPORTIONMENT IS TO A SPECIFIC DEBILITATING FACTOR OF DEGENERATIVE DISC DISEASE; NOT GENETIC MAKEUP

From the onset, QME Blair has confirmed Respondent's diagnosis of cervical degenerative disc disease (Exhibit 11 at p. 6). As explained in greater detail in the section that follows, this diagnosis was arrived at and confirmed via objective medical testing/imaging. However, beyond simply stating that a portion of Respondent's disability is caused by his degenerative disc disease, QME Blair goes on (perhaps unnecessarily) to explain the probable origin of the degenerative disc disease, citing to studies that indicate that degenerative disc disease is the result of

heritability and genetics, any may also be caused by activities such as smoking (of which Respondent has a confirmed history), and may also be caused by prior/pre-existing conditions (such as Respondent's history with lateral epicondylitis) (Exhibit 11 at p. 7). QME Blair therefore refers to Respondent's degenerative disc disease, and the corresponding apportionment thereto, in the context of Respondent's "personal history" (Exhibit 11 at p. 7).

Ultimately, QME Blair's opinion should reasonably be interpreted as stating that Respondent has permanent disability to his cervical spine, that a portion of this disability is caused by his degenerative disc disease, and that his degenerative disc disease is caused by his aforementioned personal history. Respondent's argument, and the opinion now adopted by the WCAB and WCJ, unjustifiably seeks to remove the middle step in this causation logic; in effect Respondent could just as easily argue that QME Blair has apportioned to smoking cigarettes, which would be equally incorrect. In short, the apportionment is to the degenerative disc disease, not to the cause of the degenerative disc disease, and while it was probably unnecessary for QME Blair to take the third causation step in her analysis, the presence of this analysis in no way unravels the underlying conclusion that Respondent verifiably suffers from degenerative disc disease, and it is this disease that is partially causal to Respondent's permanent disability.

B. DEGENERATIVE DISC DISEASE IS OBJECTIVELY VERIFIED; NOT AN IMMUTABLE FACTORS

QME Blair diagnosed Respondent with Degenerative Disc Disease after review of radiology reports of X-rays from 3/19/03 and 5/25/09 which showed "degenerative disease with mild narrowing of the C6-7 interspace, with small end-plate osteophytes, interpreted as degenerative disc disease" as well as MRI imaging of 6/24/09 and 6/28/11 (Exhibit 11 at p. 6). QME Blair's diagnosis of degenerative disc disease was also

arrived at through her review of reports from 3/19/03 which show a history of cervical strain (Exhibit 11 at p. 2), a 9/2/04 MRI demonstrating impingement of the supraspinatus tendon from the acromioclavicluar joint (Exhibit 11 at p. 2), a 5/25/09 note of neck pain without identifiable injury or trauma (Exhibit 11 at p. 2), a 6/24/09 imaging showing radiculopathy at C6-7 with plate and allograft (Exhibit 11 at p. 3), and a 4/7/10 report showing degenerative rates of approximately 3 percent per year (Exhibit 11 at p. 3).

With the above information in mind, it should be found uncontroversial that QME Blair's diagnosis of degenerative disc disease is not arrived at simply by virtue of Respondent's family history or genetics. Instead, the presence of degenerative disc disease is objectively confirmed. As explained in greater detail in the preceding section, the anecdote about Respondent's genetics and family history (as well as his history of smoking and lateral epicondylitis) only serves to provide a history/context to the origin of the degenerative disc disease.

C. QME BLAIR HAS FOUND, TO A REASONABLE DEGREE OF MEDICAL PROBABILITY, THAT DEGENERATIVE DISC DISEASE IS CAUSAL TO 49% OF THE DISABILITY

QME Blair has found that Respondent has a disability of 27% percent whole person impairment under DRE Category IV for bilateral or multi-level radiculopathy, which takes in to account the fact that he had a fusion procedure (Exhibit 11 at p. 7). Respondent's disability is verifiable via imaging of his spine which shows narrowing of his spine, cervical changes, and osteophytes (Exhibit 15 at p. 3). QME Blair has not simply stated that Respondent has this disability, but has instead gone on to meticulously articulate the cause of Respondent's cervical spine disability, which she explains is the type that is not caused by a specific incident or injury, and it is instead more probable that the disability is the product of

degenerative disease (Exhibit 15 at p. 3). In addition to analysis of the objective medical imaging, QME Blair further supports this conclusion by describing numerous medical studies describing the type of degenerative disability that Respondent suffers from (Exhibit 15 at p. 3). QME Blair further bolsters her medical opinion that Respondent's disability is partially the product of his degenerative disc disease, by pointing out that numerous police officers perform the same activities that Respondent performed through his employ with the City of Jackson, and yet they do not suffer the same disability that Respondent has, which is proof that there is something other than cumulative job activity that must be causal to the disability that Respondent suffers from (Exhibit 15 at p. 4). In her medical opinion this additional component is his degenerative disease.

CONCLUSION

QME Blair's apportionment opinion is valid under *Escobedo* as it constitutes substantial medical evidence. Contrary to the opinion of the WCAB, QME Blair has apportioned to degenerative disc disease, not genetics, and has explained that the degenerative disc disease is causal to 49% of the disability (not just injury) that Respondent suffers from. She has confirmed the presence of the disease via medical imaging, as well as Respondent's family history.

Due to the foregoing, it is respectfully requested that the Findings and Award of the Workers' Compensation Judge be vacated and reversed so as to find the apportionment of QME Sloane Blair valid in accordance with Labor Code § 4663 and the En Banc *Escobedo* case.

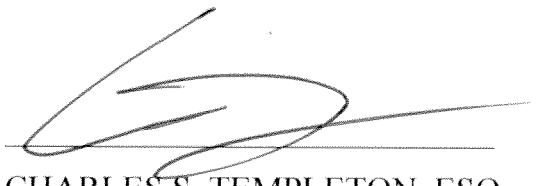
Dated: 3/16/15

Respectfully submitted,
LENAHAN, LEE, SLATER & PEARSE, LLP
By: _____
CHARLES S. TEMPLETON, ESQ.
Attorney for Petitioner,
CITY OF JACKSON, p.s.i.,
Adjusted by York Risk Services, Inc.

CERTIFICATE OF BRIEF LENGTH BY APPELLATE COUNSEL

Pursuant to California Rules of Court, Rule 8.204(c)(1), I, CHARLES S. TEMPLETON, appellate counsel, relying on the word-count of my computer program, certify that the length of this Answer to Petition for Writ of Review is: **3,297 words**.

Dated this 16th day of March 2015



CHARLES S. TEMPLETON, ESQ.

VERIFICATION

I CHARLES S. TEMPLETON, do hereby declare as follows:

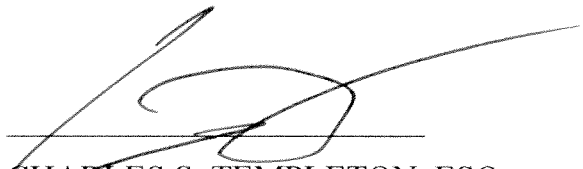
1. I am an attorney at law, duly admitted and licensed to practice before all courts of this State, and my professional office is located at 1030 15th Street, Suite 300, Sacramento, County of Sacramento, California 95814.

2. I am the attorney of record for Petitioner in the above-entitled matter.

3. I have read the foregoing PETITION FOR WRIT OF REVIEW and know the contents thereof; and I certify that the same is true of my own knowledge, except as to those matters which are therein stated upon my information or belief, and as to those matters, I believe it to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 16th day of March 2015, at Sacramento, California.



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City of Jackson, p.s.i.,
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