

City of Jackson v. WCAB (“Rice”) (2017) Cal. App. LEXIS 383

- Facts:** A 29-year old Applicant filed an Application for a cumulative trauma to the neck. The Qualified Medical Evaluator (“QME”) diagnosed Applicant with cervical radiculopathy and cervical degenerative disc disease. Citing medical support, she apportioned 49% of Applicant’s disability to non-industrial causes including “heritability and genetics,” despite the fact that Applicant had a family history of the condition and there was no way to test for genetic factors. The QME cited studies determining that every degenerative disc disease is caused up to 75% be genetics and heredity. In an effort to “err on the side of the patient,” the QME determined that 49% was the “lowest level that could be reasonably stated” in light of possible flaws in the studies, although she admittedly knew of none.
- Issue:** Whether the QME’s decision on non-industrial apportionment constituted substantial medical evidence.
- Holding:** The Court of Appeal determined that the QME’s decision did rise to the level of substantial medical evidence because of the studies cited demonstrating little effect of environmental factors on the existence of cervical degenerative disc disease.
- Reasoning:** The Court of Appeal confirmed that pathology and asymptomatic prior conditions for which an injured worker had inherited predisposition were valid bases for apportionment such as apportionment to a pre-existing congenital and degenerative disease.