

**WORKERS' COMPENSATION APPEALS BOARD  
STATE OF CALIFORNIA**

**CHRISTOPHER CANDIA, *Applicant***

**vs.**

**CITY AND COUNTY OF SAN FRANCISCO,  
Permissibly Self-Insured; *Defendant***

**Adjudication Number: ADJ18001417  
San Francisco District Office**

**OPINION AND ORDER  
DENYING PETITION FOR  
RECONSIDERATION**

We have considered the allegations in defendant's Petition for Reconsideration, applicant's Answer, and the contents of the Arbitrator's Report and Recommendation issued May 21, 2025, with respect thereto. Based on our review of the record, and for the reasons stated in the Arbitrator's Report, which we adopt and incorporate, we will deny reconsideration.

**DISCUSSION**

**I.**

We note that former Labor Code section 5909<sup>1</sup> provided that a petition for reconsideration was deemed denied unless the Appeals Board acted on the petition within 60 days from the date of filing. (Lab. Code, § 5909.) Effective July 2, 2024, section 5909 was amended to state in relevant part that:

- (a) A petition for reconsideration is deemed to have been denied by the appeals board unless it is acted upon within 60 days from the date a trial judge transmits a case to the appeals board.
- (b)
  - (1) When a trial judge transmits a case to the appeals board, the trial judge shall provide notice to the parties of the case and the appeals board.

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<sup>1</sup> All section references are to the Labor Code, unless otherwise indicated.

(2) For purposes of paragraph (1), service of the accompanying report, pursuant to subdivision (b) of Section 5900, shall constitute providing notice.

Under section 5909(a), the Appeals Board must act on a petition for reconsideration within 60 days of transmission of the case to the Appeals Board. Transmission is reflected in Events in the Electronic Adjudication Management System (EAMS). Specifically, in Case Events, under Event Description is the phrase “Sent to Recon” and under Additional Information is the phrase “The case is sent to the Recon board.”

Here, according to Events, the case was transmitted to the Appeals Board on July 23, 2025 and 60 days from the date of transmission is Sunday, September 21, 2025. The next business day that is 60 days from the date of transmission is Monday, September 22, 2025. (See Cal. Code Regs., tit. 8, § 10600(b).)<sup>2</sup> This decision is issued by or on Monday, September 22, 2025, so that we have timely acted on the petition as required by section 5909(a).

Section 5909(b)(1) requires that the parties and the Appeals Board be provided with notice of transmission of the case. Transmission of the case to the Appeals Board in EAMS provides notice to the Appeals Board. Thus, the requirement in subdivision (1) ensures that the parties are notified of the accurate date for the commencement of the 60-day period for the Appeals Board to act on a petition. Section 5909(b)(2) provides that service of the Report and Recommendation shall be notice of transmission.

Here, according to the proof of service, the Arbitrator’s Report and Recommendation was served on June 22, 2025, and the case was transmitted to the Appeals Board on July 23, 2025. Service of the Report and transmission of the case to the Appeals Board did not occur on the same day. Thus, we conclude that service of the Report did not provide accurate notice of transmission under section 5909(b)(2) because service of the Report did not provide actual notice to the parties as to the commencement of the 60-day period on July 23, 2025.

No other notice to the parties of the transmission of the case to the Appeals Board was provided by the district office. Thus, we conclude that the parties were not provided with accurate notice of transmission as required by section 5909(b)(1). While this failure to provide notice does

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<sup>2</sup> WCAB Rule 10600(b) (Cal. Code Regs., tit. 8, § 10600(b)) states that:

Unless otherwise provided by law, if the last day for exercising or performing any right or duty to act or respond falls on a weekend, or on a holiday for which the offices of the Workers' Compensation Appeals Board are closed, the act or response may be performed or exercised upon the next business day.

not alter the time for the Appeals Board to act on the petition, we note that as a result the parties did not have notice of the commencement of the 60-day period on July 23, 2025.

## II.

It is well-established that the relevant and considered opinion of one physician may constitute substantial evidence, even if inconsistent with other medical opinions. (*Place v. Workmen's Comp. Appeals Bd.* (1970) 3 Cal.3d 372, 378-379 [35 Cal.Comp.Cases 525].) We conclude there is no evidence of considerable substantiality that would warrant rejecting the Arbitrator's determinations regarding the weight given to each physician's reporting and opinions. Thus, we affirm the Arbitrator's May 21, 2025 findings in full.

Accordingly, we deny defendant's petition for reconsideration.

For the foregoing reasons,

**IT IS ORDERED** that the Petition for Reconsideration is **DENIED**.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ KATHERINE WILLIAMS DODD, COMMISSIONER**

**I CONCUR,**

**/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER**

**/s/ JOSEPH V. CAPURRO, COMMISSIONER**



**DATED AND FILED AT SAN FRANCISCO, CALIFORNIA**

**SEPTEMBER 5, 2025**

**SERVICE MADE ON THE ABOVE DATE ON THE PERSONS LISTED BELOW AT THEIR ADDRESSES SHOWN ON THE CURRENT OFFICIAL ADDRESS RECORD.**

**CHRISTOPHER CANDIA  
BROWN & DELZELL  
CITY ATTORNEY OF SAN FRANCISCO  
RONNIE CAPLANE, ARBITRATOR**

**MB/ara**

I certify that I affixed the official seal of  
the Workers' Compensation Appeals  
Board to this original decision on this date.  
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## REPORT AND RECOMMENDATION

Defendant City and County of San Francisco filed a timely and verified Petition for Reconsideration on June 10, 2025. Applicant filed a verified answer on June 17. In addition to the statutory grounds set out in Labor Code sec 5903, defendant contends that the arbitrator erred in following the opinion of the treating doctor and surgeon Bruce McCormack, rather than that of the IME Dr. Raye Bellinger.

## STATEMENT OF FACTS

Applicant was employed by the City and County of San Francisco as a firefighter, occupational code 490, from April 9, 2001 to February 28, 2022. On May 27, 2021, applicant fell and was taken by ambulance to CPMC where he was diagnosed with a right frontal meningioma. Based on the CT scan and the symptoms applicant described, the treating neurosurgeon, Dr. Bruce McCormack, recommended an immediate craniotomy. (Ex. A) On June 7, 2021, Dr. McCormack performed surgery and removed the tumor. A second surgery was performed on June 11, 2021, due to bleeding at the surgical site. Dr. McCormack filed a Doctor's First Report of Occupational Injury citing "industrial related chemical exposure." (Ex. B) This report is undated.

At the April 16, 2025, arbitration. Mr. Candia testified about some of the toxic chemicals, smoke and other carcinogenic substances to which he was exposed during his 20-plus years of employment as a firefighter. Mr. Candia fought hundreds of fires in homes, at commercial sites and vehicles. (Reporter's transcript, 4/16/25, 21:10-23) After a house fire was put out, firefighters removed their masks and were exposed to residual smoke from burned furniture, plastics and other chemicals that remained in the air. (Rpt trans 22:9-20) Among the many commercial fires to which he responded were drycleaners, paint and other warehouses. (Hrg trans. 23:11-16) Breathing apparatus was not worn at vehicle fires because they were outside. These fires generated a lot of "nasty chemicals" including magnesium from electric cars. Afterwards applicant told of feeling nauseous. (Rpt trans 22:21-23:5)

The turnout jacket and coat he wore while fighting fires were lined with materials that were later found to be carcinogenic. The jacket and coat would be covered with debris and dust from fires. The firefighters wore their dirty turnout clothing at the firehouse as a sort of badge of honor to show that they had been to a lot of fires. It was not until a policy was adopted and washing machines were installed in the firehouse that they were required to wash their turnout clothing after each wearing. (Rpt trans 23:20-26:7)

Mr. Candia was exposed to diesel fumes when the engines were started in the firehouse. Eventually, hoses were installed to contain the exhaust but not until the applicant has been a member of the department for 10 to 12 years. (Rpt trans 18:10-19:15)

He also testified that his shifts were 24-hours long, during which he remained at the firehouse. During these shifts there would be drills and equipment maintenance which exposed him to diesel and other carcinogenic fumes. (Rpt trans. 16:19-20:20)

## PROCEDURAL HISTORY

This is a denied injury brought pursuant to the Alternative Dispute Resolution program adopted by the City and County of San Francisco and the San Francisco Fire Department with a long and tortuous procedural history.

The case was first arbitrated on March 22, 2023, and submitted on March 27, 2023. On March 29, 2023, an award was issued, finding that applicant's meningioma shows signs of malignancy, that LC sec 3212.1 applied and that applicant's condition is compensable. Benefits were awarded.

On April 17, 2023, defendant filed a petition for reconsideration contesting the finding of injury AOE/COE. It also claimed that the arbitrator exceeded her authority by awarding benefits. A report and recommendation was filed, on April 25, 2023, recommending that the WCAB grant reconsideration, affirm the finding of injury AOE/COE and rescind the award of benefits.

On July 27, 2023, the Board granted reconsideration to further study the issues and on October 14, 2024, the Board issued its decision, rescinded the award and returned the matter to the arbitrator due to an inadequate record.

On November 8, 2024, the parties met. Issues were agreed upon. Stipulations were entered into and exhibits admitted. On November 19, 2024, Findings and Opinion were issued. Defendant objected, denying that it stipulated that applicant was exposed to known carcinogens during his employment as a firefighter. On December 3, 2024, the decision was rescinded.

After some procedural kerfuffles, the case was arbitrated again on April 16, 2025. Joint exhibits were admitted (see addendum A) and Mr. Candia testified. Following the hearing, a transcript was prepared and received. Applicant and defendant submitted briefs, and the case was submitted on May 1, 2025. On May 19, 2025, findings and opinion were issued, finding that applicant had met his burden, that he is entitled to the cancer presumption in Labor Code sec 3212.1 and that his meningioma is industrial.

## DISCUSSION

The issue here is injury AOE/COE. Applicant has two avenues by which to prove this. If his meningioma is or shows signs of malignancy, then he comes within the cancer presumption of Labor Code sec. 3212.1. Alternatively, his injury is compensable if there is evidence that applicant's exposure to toxins, carcinogens, smoke and other substances during his employment caused, contributed to or accelerated the growth of the meningioma.

Pursuant to Labor Code sec. 3212.1, if a firefighter develops cancer while employed and can show exposure to known carcinogens during his or her employment, then the cancer is presumed to be industrial. Applicant does not need to show that a particular exposure is scientifically connected to the type of cancer manifested. City of Long Beach v. Workers' Comp. Appeals Bd., 126 Cal. App. 4th 298, 70 Cal. Comp. Cases 109.

According to the World Health Organization (WHO), meningiomas fall into three categories. Grade I, which are totally benign. Grade II, which are a hybrid that show signs of cancer. Grade III are malignant. (Ex. E 8:4-10) If applicant's tumor falls within Grade II, then he is entitled to a finding of injury AOE/COE.

There are two qualified doctors reporting in this case, who disagree on the grade of applicant's tumor. Dr. McCormack classifies it as a Grade II and Dr. Bellinger as Grade I. Neither doctor relies on speculation. Both are experienced and qualified IMEs and are familiar with the workers' compensation system. In this case, Dr. Bellinger, is acting as the IME. Dr. McCormack is the treating surgeon who removed the meningioma. Based on his letterhead, Dr. Bellinger's areas of expertise appears to be in internal medicine, cardiology and rheumatology. Dr. McCormack has been a board certified neurosurgeon and in practice as such since 1998. (Ex. F 5:14-15)

I found Dr. McCormack's reasoning and opinion more substantial.

It is well established that the "considered opinion of one physician, though inconsistent with other medical opinions, may constitute substantial evidence." *Place v. Workers' Comp. Appeals Bd*, 3 Cal. 3d 372, 378.

Dr. McCormick had the advantage of having performed the surgery and seeing the nature and character of the tumor. In his deposition, Dr. McCormick noted that, "there was a lot of edema, which means the tumor was affecting the brain around it. There was swelling of the brain more than we typically see, which suggests the tumor was infiltrating the brain and I had to dissect it off the brain." (Exhibit E, 9:4-9) He went on to conclude that, "[B]rain invasion is considered a malignant feature." (Ex. E, 9:10-11)

Although the pathologist concludes that the findings are not "considered enough for a grade II meningioma," she goes on to say that there are enough irregularities to have considered a diagnosis of a grade II meningioma because "some features that raise concern for a grade II atypical meningioma (relatively high cellularity and conspicuous nucleoli in subset)." (Ex. H).

In his deposition, Dr. McCormack explains some inherent limitations of a pathology study. When a tumor is removed, it is not given to the pathologist in its entirety. Only a few slices are examined and, "there's always a little sampling error. They can look at and maybe run a couple slices, but they don't slice every -- the lump was basically the size of your fist or maybe an orange. And they looked at a few spots, and they see several areas of atypical features. I would defer to the pathology report, and they said there's concerns that this has more malignant features." (Ex E 8:20 - 9:3)

In his October 30, 2021, report IME Bellinger outlines the criteria for a diagnosis of a Grade II meningioma,

"World Health Organization Grade II meningiomas include atypical, clear cell and choroid meningiomas. Atypical meningiomas have increased mitotic activity, brain invasion or three or more of the following features: Increased cellularity, small cells with a high nuclear

or cytoplasmic ratio, prominent nuclei, uninterrupted patternless or sheet-like growth, or foci of spontaneous geographic necrosis." (Emphasis added) (Ex D, 9-10)

In his deposition, Dr. McCormack testified that that based on his firsthand observations during surgery, the pathology report and other medical findings, Mr. Candia's meningioma exhibited enough of these conditions for a Grade II diagnosis.

"... the pathologist said... there's increased cellularity compared to. What we usually see, so more cells, grown cells. There was prominence of nucleoli, which is abnormal features within the cell, and that raised the concern that there was a higher grade tumor." (Ex. E 8:15-19)

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"The other things that struck me is that there was a lot of edema, which means the tumor was affecting the brain around it. There was swelling of the brain more than we typically see which suggests the tumor was infiltrating the brain, and I had to dissect it off the brain." (Ex. E 9:4-9)

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"Brain invasion is considered a malignant feature." (Ex E 9:10-11)

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Defendant argues that because there is no evidence that applicant has had chemotherapy or radiation, he could not have cancer. This assertion is without merit and is purely speculative. Treatment was not at issue and no evidence was introduced on the subject. The last medical report was issued in October 2022 and is based on the IME having seen applicant a year earlier. The record is devoid of any treatment, exams or other medical information of what transpired with Mr. Candia's health after his last exam by Dr. Bellinger in October 2021. Other than annual monitoring as recommended by Dr. McCormack, there is no evidence of the nature of what treatment would be required for Mr. Candia's Grade II meningioma.

While both doctors' opinions are reasonable, that of Dr. McCormack's is entitled to greater weight because of his qualifications as a neurosurgeon, years of experience in practice and his firsthand observations when performing the surgery to remove the tumor. His conclusion is also supported by the atypical cells, relatively high cellularity and conspicuous nucleoli identified by the pathologist. (Ex H). Furthermore, Dr. McCormack explains the limitations of the pathology report resulting from only examining relatively small and random pieces of the tumor. Finally, Labor Code sec 3202 mandates liberal construction in favor of the applicant. For all of these reasons, the applicant, a long-serving member of the fire department, has met his burden and is entitled to the cancer presumption in Labor Code section 3212.1.

As to the second question presented, Dr. McCormack and Dr. Bellinger recognize that there is no conclusive scientific evidence as to what chemical exposures can cause the development of



meningiomas. However, both agree that there are studies indicating exposure to radiation and/or radon gas may be a cause and that radon is common in households. (Ex. E 10:16-21; Ex. F page 10) Dr. McCormack states that, "(A)nd as firemen in basements and stuff like that, they are exposed to radon and other radiation." (Ex.E 11-15) The applicant testified to fighting hundreds of structure fires and the residual fumes in the air that were inhaled once the firefighters removed their masks. Based on this testimony and the doctors' causal findings, it is likely that applicant was exposed to agents that caused or accelerated his meningioma.

### RECOMMENDATION

It is recommended that the Board affirm that applicant was exposed to carcinogenic agents during his employment as a firefighter for the City and County of San Francisco, his meningioma shows sufficient signs of cancer so as to classify it as a Grade II, the cancer presumption in LC sec 3212 applies and his injury is compensable.

Alternatively, the board should affirm that applicant's exposure to radon, radiation and other toxic chemicals during his employment caused, contributed to or accelerated the meningioma.

Dated: June 22, 2025

Ronnie Caplane, arbitrator