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

**CLYDE CARLSON, *Applicant***

**vs.**

**CARMAX INC.; insured by TRAVELERS INSURANCE, *Defendants***

**Adjudication Numbers: ADJ19575878**
**Santa Ana District Office**

# OPINION AND ORDER GRANTING PETITION FOR RECONSIDERATION AND DECISION AFTER RECONSIDERATION

Defendant filed a Petition for Reconsideration (Petition) of the Findings and Award (F&A) issued on September 9, 2025, wherein the workers' compensation administrative law judge (WCJ) found in pertinent part that applicant, while employed by defendant during the cumulative period ending July 2024, sustained injury arising out of and in the course of his employment to the left shoulder and deferred findings as to additional body parts; that the date of injury pursuant to Labor Code section 5412 was the date of the agreed medical evaluator (AME)'s report; and that the left shoulder injury resulted in temporary disability.[1]

Defendant asserts there is no substantial evidence to support that applicant sustained a cumulative injury; that the need for medical treatment and resulting temporary disability were due to a previous date of injury; that further development of the record is appropriate to determine the date of injury under Labor Code section 5412[2]; and that the WCJ should not have deferred findings on additional body parts claimed by applicant.

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[1] The caption of the F&A lists the insurer as "Travelers Diamond Bar." The pleadings reference "Travelers Insurance." As discussed below, we are unable to determine which entity is providing insurance or adjusting services in this case.

[2] Although not required for our analysis, we note the date of the AME's report is subject to interpretation. The date of the report could be the date the doctor evaluated the applicant on October 17, 2024, the top date listed on the report of November 14, 2024, the date doctor Aval signed the report of December 19, 2024, (which is also the date the report was served), or the unknown date when applicant received the report. (Exhibit 102.)

Applicant filed an Answer.

The WCJ's Report and Recommendation (Report) recommends the Petition be denied.

We have considered the allegations of the Petition and the Answer and the contents of the Report of the WCJ with respect thereto.

After our review of the record and for the reasons discussed below, we will grant reconsideration, rescind the F&A and return the case to the WCJ for further proceedings consistent with this opinion.

**I.**

Former Labor Code section 5909[3] 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. (Former 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.
>
> (2) For purposes of paragraph (1), service of the accompanying report, pursuant to subdivision (b) of Section 5900, shall constitute providing notice.

(Lab. Code, § 5909.)

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 October 17, 2025, and 60 days from the date of transmission is Tuesday, December 16, 2025. This decision

[3] Unless otherwise stated, all further statutory references are to the Labor Code.

issued by or on December 16, 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 shall be notice of transmission.

According to the proof of service, the Report was served on October 17, 2025, and the case was transmitted to the Appeals Board on October 17, 2025. Service of the Report and transmission of the case to the Appeals Board occurred on the same day. Thus, we conclude that the parties were provided with the notice of transmission required by section 5909(b)(1) because service of the Report in compliance with section 5909(b)(2) provided them with actual notice as to the commencement of the 60-day period on October 17, 2025.

**II.**

The relevant medical exhibits start with the April 24, 2018, New Patient Narrative Review by Sonya Buchanan, M.D., for an injury on April 11, 2018, with diagnosis of left shoulder strain with impingement syndrome. (Exhibit B.)

Soheil M. Aval, M.D., issued an Agreed Medical Examination (AME) report dated January 31, 2023, which discusses dates of injury before the current claimed injury ending on July 1, 2024, including injuries of October 15, 2010, February 7, 2013, April 5, 2016, May 8, 2017, and April 11, 2018. He states:

> It should be noted that the earliest medical record I have available for review at this time is dated December 4, 2018, more than 8 months after the date of injury of April 11, 2018. Before offering further comment, I would like the opportunity to review additional medical records, including all records related to the treatment the patient required at the times of the respective industrial injuries. I would like to review all prior diagnostic studies, and I would like to review the operative reports in relation to the surgeries that were performed to the patient's cervical spine, left shoulder, and bilateral knees. After review of additional medical records, I will issue a supplemental report addressing apportionment.

(Exhibit A, Soheil M. Aval, M.D., January 31, 2023, page 23.)

On October 21, 2024, Brian K. Lee, M.D., found applicant temporarily totally disabled for the July 1, 2014, date of injury. (Exhibits 9 and 10.)

Dr. Lee then issued a two-page Request for Authorization (RFA), for dates of injury April 11, 2018, and July 1, 2024, referencing claim numbers FCR018 and F5W0722 for a left shoulder reverse arthroplasty and biceps transfer to pectoralis on November 5, 2024. (Exhibit 8.)

After again evaluating applicant, AME Dr. Aval issued a report dated November 14, 2024, for dates of injury of October 15, 2010, February 7, 2013, April 5, 2016, May 8, 2017, April 11, 2018, and cumulative from March 23, 2010, through July 1, 2024. Recommended work restrictions were not broken down by body part or date of injury. (Joint Exhibit 102, Soheil M. Aval, M.D., November 14, 2024, page 35.) For causation and apportionment, he states:

> It is further this examiner's opinion that the job duties the patient describes having performed for the above-named employer since 2010 are considered a viable mechanism of cumulative trauma injury to result in injury to the patient's neck, both shoulders, right thumb, lumbar spine, both hips and both knees.
>
> **
>
> *I require all additional medical records*, including all records related to the treatment the patient required at the times of the respective industrial injuries, including all prior diagnostic studies as well as the operative reports. Upon receipt of same, I will be better able to address apportionment.

(Joint Exhibit 102, Soheil M. Aval, M.D., November 14, 2024, page 36, emphasis added.)

On December 2, 2024, and January 13, 2025, Kinjal Hitendra Thakkar, PA-C, found applicant temporarily totally disabled for a July 1, 2014, date of injury. (Exhibits 6 and 7.)

In AME Dr. Aval's March 27, 2025, supplemental report, he states:

> Mr. Clyde Carlson was last seen in this office for orthopedic evaluation on October 17, 2024. I provided a full narrative report and addressed all issues except apportionment. I requested the patient's complete prior medical records in order to address those issues. *None of the old records have been provided* and therefore, I remain unable to address that issue.

(Joint Exhibit 101, Soheil M. Aval, M.D., March 27, 2025, page 6, emphasis added.) The doctor did not discuss industrial causation.

On April 9, 2025, a Utilization Review (UR) Determination issued for the April 11, 2018, date of injury which certified left shoulder reverse arthroplasty, noted the RFA was first received on April 2, 2025, and referenced claim FCR0129. (Exhibit 12.)

Applicant continued to be temporarily totally disabled for the July 1, 2024, date of injury in the April 14, 2025 progress note of physician assistant Thakkar (Exhibit 4) the May 19, 2025 progress note of Dr. Lee (Exhibit 3) and the July 7, 2025 reporting of Dr. Lee (Exhibits 1 and 2).

At trial, the parties stipulated that applicant, while employed during the period March 23, 2010, through July 1, 2024, sustained injury arising out of and in the course of employment. The stipulations note defendant disputes the last day of employment. Relevant issues raised include parts of body injured, earnings, temporary disability, and section 5412 date of injury. The EDD lien was deferred. (Minutes of Hearing and Summary of Evidence (MOH), July 22, 2025, page 2.)

Applicant testified he last worked at defendant CarMax on July 1, 2024, when someone from human resources called and said his disability could not be accommodated. Probably the most difficult thing for his left shoulder was putting on the wheels and taking them off. It was very heavy, put a strain, and was somewhat painful. His left shoulder surgery was approved in April 2025. (MOH, July 22, 2025, page 5, lines 9-12, 15-17, and 21-22.) He started working at CarMax on March 23, 2010. He had the same job duties through when he stopped working there. When he last worked in July 2024, he had been back to work in the last week of June and worked for five days that week. He was off consistently from February 28, 2023, for a right shoulder injury. He also had a prior left shoulder injury on April 11, 2018. (MOH, July 22, 2025, page 6, lines 11-14 and 18-22.) When applicant last worked, he was doing his regular activities. He feels that the work he was doing aggravated his left shoulder condition. (MOH, July 22, 2025, page 7, lines 6-8.)

The WCJ found in pertinent part that applicant while employed during the cumulative period ending July 2024 by defendant, sustained injury to the left shoulder, temporary disability was owed from October 21, 2024, to the present and continuing less credits, the date of injury under section 5412 is the date of Dr. Aval's report, and all other issues, including body parts, are deferred. (F&A, pages 1-2.)

It is from these findings that defendant seeks reconsideration.

**III.**

We note a grant of reconsideration has the effect of causing "the whole subject matter [to be] reopened for further consideration and determination" (*Great Western Power Co. v. Industrial Acc. Com.* (*Savercool*) (1923) 191 Cal. 724, 729 [10 I.A.C. 322]) and of "[throwing] the entire

record open for review." (*State Comp. Ins. Fund v. Industrial Acc. Com.* (*George*) (1954) 125 Cal.App.2d 201, 203 [19 Cal.Comp.Cases 98].)

A.

The typical case appropriate for expedited hearing includes at least one accepted body part. Through having a body part accepted, the more complex foundational issues such as employment and affirmative defenses are already resolved, which allows for a more focused and streamlined proceeding.

Here, the parties stipulated that applicant, while employed during the cumulative period through July 1, 2024, sustained injury arising out of and in the course of employment.

What is missing from the stipulation, however, is an *accepted body part*. Further, defendant disputes the last date of employment, and even the section 5412 date of injury is at issue. Without an accepted body part, this case was not appropriate for expedited hearing. This is doubly so where the section 5412 date of injury and the last date of employment are also disputed.

As relevant here, section 5502(b) provides:

> (b) The administrative director shall establish a priority calendar for issues requiring an expedited hearing and decision. A hearing shall be held and a determination as to the rights of the parties shall be made and filed within 30 days after the declaration of readiness to proceed is filed *if the issues in dispute are any of the following*, provided that if an expedited hearing is requested, no other issue may be heard until the medical provider network dispute is resolved:
>
> > (1) The employee's entitlement to medical treatment pursuant to Section 4600, except for treatment issues determined pursuant to Sections 4610 and 4610.5.
> > (2) Whether the injured employee is required to obtain treatment within a medical provider network.
> > (3) A medical treatment appointment or medical-legal examination.
> > (4) The employee's entitlement to, or the amount of, temporary disability indemnity payments.
> > (5) The employee's entitlement to compensation from one or more responsible employers when two or more employers dispute liability as among themselves.
> > (6) Any other issues requiring an expedited hearing and determination as prescribed in rules and regulations of the administrative director.

(Lab. Code, § 5502(b), emphasis added.)

Consequently, the plain language of the statute provides that there shall be an expedited hearing if "the issues in dispute are any of the" five specifically enumerated issues listed in the

statute, and any "other issues requiring an expedited hearing and determination as prescribed in rules and regulations of the administrative director." These are important restrictions because the nature of an expedited hearing is that it is expected to be expedient, and the issues must necessarily be of limited scope.

WCAB Rule 10782 states as follows:

> (a) *Where injury to any part or parts of the body is accepted* as compensable by the employer, *a party is entitled to an expedited hearing and decision upon the filing* of an Application for Adjudication of Claim and *a Declaration of Readiness to Proceed* pursuant to rule 10625 *establishing a bona fide, good faith dispute pursuant to Labor Code section 5502(b)*.
>
> (b) *An expedited hearing may be set* upon request *where injury to any part or parts of the body is accepted* as compensable by the employer *and the issues include medical treatment or temporary disability for a disputed body part or parts*.
>
> (c) A workers' compensation judge assigned to a case may redesignate the expedited hearing as a mandatory settlement conference, receive a Pre-Trial Conference Statement pursuant to Labor Code section 5502, close discovery and schedule the case for trial on the issues presented, if the workers' compensation judge determines that the case is not appropriate for expedited determination.
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> (d) Grounds for the re-designation of an expedited hearing include, but are not limited to, cases where the direct and cross-examination of the applicant will be prolonged, or where there are multiple witnesses who will offer extensive testimony.
>
> (e) *The parties are expected to submit for decision all matters properly in issue at a single trial* and to produce all necessary evidence, including witnesses, documents, medical reports, payroll statements and all other matters considered essential in the proof of a party's claim or defense.

(Cal. Code Regs., tit. 8, § 10782, emphasis added.)

WCAB Rule 10782 confirms that where injury to a body part is accepted a party is *entitled* to an expedited hearing when there is a good faith issue listed in section 5502(b). This mandatory provision of the Rule is appropriate because when a body part is accepted, many of the difficult issues that are not amendable to expedited hearing such as employment, statute of limitations, and affirmative defenses, are clearly not at issue.

The Rule further allows that an expedited hearing *may* be set where injury to any body part is accepted and *the issues include* medical treatment or temporary disability for a disputed body part or parts. This permissive language acknowledges that even if there are multiple complex

additional issues, expedited hearing may be appropriate where critical issues such as the applicant's receipt of medical treatment or temporary disability are in dispute.

Because the parties are expected to submit for decision all matters properly in issue at a single trial and because it is difficult to handle complex or multiple issues during an expedited hearing, WCAB Rule 10782 acknowledges that the need to try multiple issues may, at some point, exceed the capacity and summary nature of the expedited hearing process. In such complex cases, it is within the WCJ's discretion to redesignate the hearing as a mandatory settlement conference before setting it for regular trial. (Cal. Code Regs., tit. 8, § 10782 (c) and (d).)

We note that on occasion, even where the claim is denied in its entirety or body parts are at issue, issues may arise where an expedited hearing is appropriate, such as when an applicant is seeking treatment during the delay period under section 5402(b). (*See Kim v. B.C.D. Tofu House, Inc.,* (2014) 79 Cal.Comp.Cases 140 (significant panel decision).)[4]

In the present case, not only was temporary disability in issue, but there were also disputes as to body parts claimed, the last day of employment, and the section 5412 date of injury. It is clear the amalgam of complex issues set for trial exceed the scope of inquiry appropriate for the expedited hearing process, and the WCJ should have redesignated the expedited hearing as a mandatory settlement conference, closed discovery, and scheduled the case for trial in accordance with WCAB Rule 10782(c).

B.

In the F&A, the WCJ found that applicant sustained injury to the left shoulder and referenced the parties' stipulation to injury that did not include a body part injured. The WCJ explained the applicant "testified in detail only as to injury of the left shoulder, describing tasks involving the removal and reinstallation of heavy wheels as the most physically taxing, with associated pain and strain." (Opinion on Decision, page 3.)

A decision must be based on admitted evidence in the record and must be supported by substantial evidence. (Lab. Code, §§ 5903, 5952(d); *Lamb v. Workmen's Comp. Appeals Bd.* (1974) 11 Cal.3d 274, 281 [39 Cal.Comp.Cases 310]; *Garza v. Workmen's Comp. Appeals Bd.*

[4] A significant panel decision is a decision of the Appeals Board that has been designated by all members of the Appeals Board as of significant interest and importance to the workers' compensation community. Although not binding precedent, significant panel decisions are intended to augment the body of binding appellate and en banc decisions by providing further guidance to the workers' compensation community. (Cal. Code Regs., tit. 8, § 10305(u).)

(1970) 3 Cal.3d 312, 317 [35 Cal.Comp.Cases 500]; *LeVesque v. Workers' Comp. Appeals Bd.* (1970) 1 Cal.3d 627, 637 [35 Cal.Comp.Cases 16].) Where the issue in dispute is a medical one, expert medical evidence is ordinarily needed to resolve the issue. (*Insurance Co. of North America v. Workers' Comp. Appeals Bd.* (1981) 122 Cal.App.3d 905, 912 [46 Cal.Comp.Cases 913]; *Peter Kiewit Sons v. Industrial Acc. Com.* (1965) 234 Cal.App.2d 831, 838 [30 Cal.Comp.Cases 188].)

Medical evidence that industrial injury was reasonably probable, although not certain, constitutes substantial evidence for finding injury AOE/COE. (*McAllister v. Workers' Comp. Appeals Bd*. (1968) 69 Cal.2d 408, 417 [33 Cal.Comp.Cases 660].) Although the factual issue of the occurrence of the alleged incident is a determination for the WCJ, the issue of injury is a medical determination, which requires expert medical opinion.

"Medical reports and opinions are not substantial evidence if they are known to be erroneous, or if they are based on facts no longer germane, on inadequate medical histories and examinations, or on incorrect legal theories. Medical opinion also fails to support the Board's findings if it is based on surmise, speculation, conjecture or guess." (*Hegglin v. Workmen's Comp. Appeals Bd.* (1971) 4 Cal.3d 162, 169 [36 Cal.Comp.Cases 93].

Although the treating physicians maintain that applicant was temporarily totally disabled based on a July 1, 2024 date of injury, none of the reports discuss causation nor explain how the injury occurred and are therefore not substantial evidence on the issue. (Exhibits 1 through 4, and 6 through 10.)

AME Dr. Aval stated "the job duties the patient describes having performed. . . since 2010 are considered *a viable mechanism* of cumulative trauma injury to result in injury to [applicant's shoulders]," and that the doctor needed to review "*additional medical records*, including all records related to the treatment the patient required at the times of the respective industrial injuries." (Joint Exhibit 102, page 36, emphasis added.) In his supplemental report, Dr. Aval confirmed none "of the old records have been provided." (Joint Exhibit 101, page 6.)

The AME's statement that job duties are considered a viable mechanism of cumulative injury posits a possible causation theory but does not provide the necessary linking of injury on a medically more probable than not basis. Such opinion is required. (Lab. Code §§ 3202.5, 5705; *McAllister*, *supra*, at p. 417.) Moreover, he clearly states that he is missing medical records necessary to formulate his opinions. The opinions by AME Dr. Aval regarding injury are based on

surmise, speculation, conjecture or guess due to an inadequate medical history, and are therefore not substantial evidence. (*Hegglin*, *supra*, at p. 169.)

We observe that applicant's testimony at trial is not a substitute for expert medical opinion in a cumulative injury case.

C.

A cumulative injury is defined as one "occurring as repetitive mentally or physically traumatic activities extending over a period of time, the combined effect of which causes any disability or need for medical treatment," and the date of a cumulative injury shall be the date determined under section 5412. (Lab. Code, § 3208.1.)

Section 5412 states: "The date of injury in cases of occupational diseases or cumulative injuries is the date upon which the employee first suffered disability therefrom and either knew, or in the exercise of reasonable diligence should have known, that such disability was caused by his present or prior employment." (Lab. Code, § 5412.) Thus, the date of injury per section 5412 is a specific day and may or may not be the same day as the end date of industrial exposure and liability established by section 5500.5.

Either compensable temporary disability or permanent disability is required to satisfy section 5412, and medical treatment alone is not disability, but it may be evidence of compensable permanent disability. (*State Comp. Ins. Fund v. Workers' Comp. Appeals Bd.* (*Rodarte*) (2004) 119 Cal.App.4th 998, 1005-1006 [69 Cal.Comp.Cases 579].)

The WCJ's finding of cumulative injury through the *month* of July 2024, is not a finding of *date* of injury. It appears this finding is likely a clerical error and meant to represent the end date stated in the parties' stipulation to injury of July 1, 2024. Assuming a clerical error and that the end date is July 1, 2024, this possible finding of the last date on which the employee was employed exposing him to the hazards of cumulative injury and the section 5412 date of injury are not supported by substantial evidence.[5]

"The number and nature of the injuries suffered are questions of fact for the WCJ or the WCAB." (*Western Growers Ins. Co. v. Workers' Comp. Appeals Bd.* (*Austin*), (1993) 16 Cal.App.4th 227, 234 [58 Cal.Comp.Cases 323].) While the Appeals Board decides the issue of

[5] Although in the MOH defendant disputes the last day of employment, there appears no evidence was presented contradicting applicant's claim of last working on July 1, 2024. We therefore proceed with applicant's last day of employment as July 1, 2024. This may or may not be applicant's last day of injurious exposure.

whether a cumulative injury exists, substantial medical evidence, however, must support the finding of industrial injury. (*Escobedo v. Marshalls* (2005) 70 Cal.Comp.Cases 604, 620 (Appeals Board en banc).) "Further, a medical report is not substantial evidence unless it sets forth the reasoning behind the physician's opinion, not merely his or her conclusions." (*Id.* at p. 621.)

"For example, if an employee becomes disabled, is off work and then returns to work only to again become disabled, there is a question of fact as to whether the new disability is due to the old injury or whether it is due to a new and separate injury." (*Western Growers*, *supra*, at p. 234.) Where a period of disability interrupted a period of employment trauma, two separate injuries may be found. (*Aetna Cas. & Sur. Co. v. WCAB* (*Coltharp*), (1970) 35 Cal.App.3d 329, 342-343, [38 Cal.Comp.Cases 720].)

As discussed above, AME Dr. Aval's opinions regarding left shoulder injury are not substantial evidence. It is unclear from AME Aval's reporting when the claimed left shoulder injury did or did not cause disability nor how many cumulative injuries to the left shoulder may have occurred.

The WCJ and the Appeals Board have a duty to further develop the record where there is insufficient evidence on an issue. (*McClune v. Workers' Comp. Appeals Bd.* (1998) 62 Cal.App.4th 1117, 1121-1122 [63 Cal.Comp.Cases 261].) The Appeals Board has a constitutional mandate to "ensure substantial justice in all cases." (*Kuykendall v. Workers' Comp. Appeals Bd.* (2000) 79 Cal.App.4th 396, 403 [65 Cal.Comp.Cases 264].) The Board may not leave matters undeveloped where it is clear that additional discovery is needed. (*Id. at* p. 404.) The preferred procedure is to allow supplementation of the medical record by the physicians who have already reported in the case. (*McDuffie v. Los Angeles County Metropolitan Transit Authority* (2003) 67 Cal.Comp.Cases 138, 142 (Appeals Board en banc).)

Updated expert medical opinion addressing the relevant issues is required, which should be done by first returning to the current AME.

D.

As discussed above, the parties stipulated at trial that applicant, while employed during the period ending July 1, 2024, sustained injury, but did not identify a body part injured. In addition, defendant contested the last date of employment.

Stipulations further the public policies of settling disputes and expediting trials. (Lab. Code, § 5702; *County of Sacramento v. Workers' Comp. Appeals Bd.* (*Weatherall*) (2000) 77

Cal.App.4th 1114, 1119 [65 Cal.Comp.Cases 1].) While stipulations are permissible in workers' compensation cases and are treated as evidence in the nature of an admission, they are not binding on the WCJ or the WCAB. (*Turner Gas Co. v. Workmen's Comp. Appeals Bd.* (1975) 47 Cal.App.3d 286, 290-291 [40 Cal.Comp.Cases 253]; see also *Draper v. Workers' Comp. Appeals Bd.* (1983) 147 Cal.App.3d 502, 508, fn. 4 [48 Cal.Comp.Cases 748] (WCAB does not exceed its authority in making a finding contrary to a stipulation), and *Robinson v. Workers' Comp. Appeals Bd.* (1987) 194 Cal.App.3d 784, 790 [52 Cal.Comp.Cases 419] (stipulations which arise in workers' compensation cases are not necessarily binding on the WCAB).)

The parties are encouraged to use stipulations when appropriate. Well-crafted stipulations may obviate the need for discovery and streamline litigation. The use of stipulations can reduce demands on the court's time and resources.

It is axiomatic that in determining injury it is necessary to identify the body part or parts injured. The California Supreme Court long ago confirmed the "Constitution, in our opinion, authorizes compensation for injury to the body of the workman, including every part thereof, natural or artificial, which is essential to its proper functioning." (*Pacific Indem. Co. v. IAC*. (1932) 215 Cal. 461, 465, emphasis added.)

A stipulation to injury without stipulating to a single body part that has caused the need for medical treatment or disability creates confusion for the parties as to the obligation to provide benefits. Similarly, a stipulation of employment through a specific date where defendant disputes the last day of employment creates uncertainty as to what the stipulation actually represents.

In any future proceeding, the parties should bear in mind that stipulations are treated as evidence in the nature of an admission. (*Turner Gas Co., supra*, at pp. 290-291.) As required by section 5313, "the WCJ is charged with the responsibility of referring to the evidence in the opinion on decision, and of clearly designating the evidence that forms the basis of the decision." (*Hamilton v. Lockheed Corporation* (2001) 66 Cal.Comp.Cases 473, 475 (Appeals Board en banc).) Under the reasoning in *Hamilton* then, as appropriate, the WCJ may be required to explain why a stipulation was approved by the WCJ and its import.

E.

A presumption becomes operative at trial when the basic facts giving rise to the presumption are established by the pleadings, by stipulation, by judicial notice, or by evidence. This is because the Appeals Board must take judicial notice of all federal and state decisional,

constitutional, and statutory laws, and therefore applying a statutory presumption is mandatory and not dependent upon whether a party timely raises the provision as an issue. (*Gee v. WCAB* (2002) 96 Cal.App.4th 1418, 1425-1426, [67 Cal.Comp.Cases 236].)

In the Answer, applicant asserts his claim is presumed compensable as defendant failed to deny it within 90 days of when the claim form was filed pursuant to section 5402(b). As the section 5402(b) presumption was not raised at trial and there appears to be no evidence presented by either party regarding it, we decline to consider the issue of whether the presumption applies at this time.

**V.**

The caption of the F&A lists the insurer as "Travelers Diamond Bar," and both the Pre-Trial Conference Statement (PTCS) and MOH list the insurer as "Travelers Insurance." We are unable to determine which Travelers' company, if any, is providing insurance or adjusting services. A public search of the California Department of Insurance web page reveals no entity listed as "Travelers," "Travelers Diamond Bar," or "Travelers Insurance" authorized to provide workers' Compensation coverage in California.[6]

Under WCAB Rule 10390 (Cal. Code Regs., tit. 8, §10390), all parties must provide their full legal name on all pleadings and at any appearance, including the names of the employer, insurance company and any third-party administrator. (See *Coldiron v. Compuware Corp.* (2002) 67 Cal.Comp.Cases 289 (Appeals Bd. en banc) [defendant attorneys must disclose proper legal names for the employer, insurance company and any third-party administrator and failure to do so may subject the offending party to sanctions]; and see *Jillian DiFusco v. Hands On Spa* (2025) 90 Cal.Comp.Cases 1007 (Appeals Bd. en banc) [WCAB Rule 10390 does not supersede the *Coldiron* decisions. Defendants must comply with WCAB Rule 10390 and the disclosure requirements in *Coldiron I* and *II*, regardless of whether there is a third-party administrator].)

We expect that defendant shall correct/clarify the name of the insurer forthwith.

**VI.**

Following our independent review of the record occasioned by applicant's Petition, we are persuaded that the issues raised at trial were not appropriate for an expedited hearing and, further,

[6] See: https://interactive.web.insurance.ca.gov/companyprofile/companyprofile?event=companyProfile.

that additional discovery is necessary to create a substantial record upon which findings may be based.

Accordingly, we grant defendant's Petition for Reconsideration, rescind the September 9, 2025, Findings and Award, and return the case to the trial level for further proceedings consistent with this opinion.

For the foregoing reasons,

**IT IS ORDERED** that defendant's Petition for Reconsideration of the September 9, 2025, Findings and Award is **GRANTED**.

**IT IS FURTHER ORDERED** as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the September 9, 2025, Findings and Award is **RESCINDED**, and the matter is **RETURNED** to the trial level for further proceedings consistent with this opinion.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ CRAIG L. SNELLINGS, COMMISSIONER**

**I CONCUR,**

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

**/s/ KATHERINE A. ZALEWSKI, CHAIR**

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

**DECEMBER 16, 2025**

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

**CLYDE CARLSON**
**LAW OFFICES OF ROGER T MURPHY**
**ACUMEN LLP**

**PS/oo**

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