

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

**ALVARO MATA, *Applicant***

**vs.**

**NVIDIA CORPORATION;  
TRAVELERS PROPERTY CASUALTY COMPANY OF AMERICA, *Defendants***

**Adjudication Numbers: ADJ20478767  
San Jose District Office**

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

Applicant seeks reconsideration of the Findings and Order (F&O) issued by the workers' compensation administrative law judge (WCJ) on February 2, 2026. The WCJ found, in relevant part, while employed by defendant as a software engineer from December 4, 2023 to May 17, 2024, for a period of less than six months, applicant did not sustain injury arising out of and occurring in the course of employment (AOE/COE) to his psych, teeth, head, and circulatory system. The WCJ thus ordered that applicant take nothing for his claim of injury.

Applicant contends that the WCJ's F&O should be rescinded as further development of the medical-legal record is needed for the head/headaches, teeth/bruxism, sleep disturbance, and circulatory/cardiac. Applicant further contends that a petition for removal was not required to be filed to preserve the issue of whether development of the record is necessary. Applicant requests that the record be further developed to address the non-psychiatric claims as Labor Code section 32083.3(d)<sup>1</sup> applies only to a psychiatric injury.

We have received an Answer from defendant.

The WCJ issued a Report and Recommendation on Petition for Reconsideration (Report), recommending that we deny applicant's Petition for Reconsideration (Petition).

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<sup>1</sup> All further statutory references will be to the Labor Code unless otherwise indicated.

We have considered the allegations of the Petition and the Answer and the contents of the Report with respect thereto. Based on our review of the record, and for the reasons discussed below, we will grant reconsideration, rescind the F&O, substitute new Findings of Fact, and return the matter to the trial level for further proceedings consistent with this opinion.

### **FACTS**

We will briefly review the relevant facts.

On February 4, 2025, applicant filed an Application for Adjudication of Claim (Application) claiming a cumulative injury to his nervous system-stress and head in the form of headaches while employed by defendant as a technical program manager from December 4, 2023 to May 17, 2024.

On July 25, 2025, applicant filed a Notice Requesting an Amended Application to add “801-Circulatory System-heart-other than heart attack, blood, arteries, veins, etc.” and teeth.

On July 29, 2025, applicant was evaluated by psychologist, Maria Abenes, Ph.D. Dr. Abenes noted applicant’s symptoms which included “frequent episodes of gastrointestinal discomfort,” “sharp headaches near the temples, typically triggered by overload,” and “dental problems, including teeth grinding, jaw clenching, and discomfort” which worsen during periods of high stress or disrupted sleep which he partially manages with a sleep mouth guard. (Applicant Exhibit #1, Doctor’s First Report of Occupational Injury or Illness, dated July 29, 2025, at p. 7.) Under the section titled “Referrals,” Dr. Abenes opined if industrially related, applicant requires evaluation and treatment with specialists in internal medicine for applicant’s gastrointestinal discomfort and a dentist for teeth grinding. (*Id.* at pp. 18-19.) Applicant also informed Dr. Abenes that he had severe heart pounding/racing and was working on stabilizing his heart problems as an EKG and his chest would tighten up. (*Id.* at pp 5, 13.)

On December 23, 2025, the parties proceeded to trial on the following issues: 1) injury AOE/COE, 2) whether the affirmative defense of section 3208.3(d) applies based on a failure to meet the six-month employment bar, and 3) objection by applicant to having the case proceed as additional discovery is needed on the neurological, dental, and internal body parts. All other issues were deferred. (Minutes of Hearing and Summary of Evidence (MOH/SOE), at p. 2.)

## DISCUSSION

### I.

Preliminarily, former section 5909 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.
  - (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 under the Events tab 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 March 11, 2026, and 60 days from the date of transmission is May 10, 2026, which is a Sunday. The next business day that is 60 days from the date of transmission is Monday, May 11, 2026. (See Cal. Code Regs., tit. 8, § 10600(b).)<sup>2</sup> This decision was issued by or on May 11, 2026, 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

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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.

act on a petition. Section 5909(b)(2) provides that service of the Report shall constitute notice of transmission.

Here, according to the proof of service for the Report, it was served on March 11, 2026, and the case was transmitted to the Appeals Board on March 11, 2026. 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 March 11, 2026.

## II.

We first address the issue of whether applicant's Petition was timely filed.

There are 20 days allowed within which to file a petition for reconsideration from a "final" decision that has been served by mail upon an address in California. (Lab. Code, §§ 5900(a), 5903.) This time is extended by 5 calendar days if service is made upon the parties within California, and 10 calendar days if service is made to an address outside of California but within the United States. (Cal. Code Regs., tit. 8, § 10605(a)(2).) To observe due process for all parties, we interpret Rule 10605 as extending the time to file for all parties being served. (See also *Mayfield v. Walmart* (April 29, 2022, ADJ12158478, ADJ14880350) [2022 Cal. Wrk. Comp. P.D. LEXIS 120]; *Thomas v. Volt Information Sciences* (April 18, 2022, ADJ10713815) [2022 Cal. Wrk. Comp. P.D. LEXIS 104]; *Rascon v. Bay Cities Paving & Grading* (July 17, 2023, ADJ9553015) [2023 Cal. Wrk. Comp. P.D. LEXIS 222].)

Here, the F&O was served upon the parties on February 2, 2026. While applicant's attorney received service of the decision within California, defendant and defense counsel were served at addresses outside of California. Therefore, a Petition must be filed within 30 days of February 2, 2026, or by March 2, 2026. As applicant filed his Petition on February 27, 2026, we find the Petition was timely filed.

## III.

We now turn to the merits of applicant's Petition. Applicant does not dispute that he was employed for less than six months and that section 3208.3(d) applies to his alleged psychiatric injury. (Petition, at p. 6.) However, applicant contends section 3208.3(d) should not apply to the alleged non-psychiatric injuries and permit "a global finding that no industrial injury occurred." (*Id.*)

Decisions of the Appeals Board “must be based on admitted evidence in the record.” (*Hamilton v. Lockheed Corporation (Hamilton)* (2001) 66 Cal.Comp.Cases 473, 476 (Appeals Board en banc).) An adequate and complete record is necessary to understand the basis for the WCJ’s decision. (Lab. Code, § 5313.) “It is the responsibility of the parties and the WCJ to ensure that the record is complete when a case is submitted for decision on the record. At a minimum, the record must contain, in properly organized form, the issues submitted for decision, the admissions and stipulations of the parties, and admitted evidence.” (*Hamilton, supra*, 66 Cal.Comp.Cases at p. 475.) The WCJ’s decision must “set[] forth clearly and concisely the reasons for the decision made on each issue, and the evidence relied on,” so that “the parties, and the Board if reconsideration is sought, [can] ascertain the basis for the decision[.] . . . For the opinion on decision to be meaningful, the WCJ must refer with specificity to an adequate and completely developed record.” (*Id.* at p. 476 (citing *Evans v. Workmen’s Comp. Appeals Bd.* (1968) 68 Cal.2d 753, 755 [33 Cal.Comp.Cases 350]).)

As required by section 5313 and explained in *Hamilton*, “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, supra*, at p. 475.) The WCJ’s opinion on decision “enables the parties, and the Board if reconsideration is sought, to ascertain the basis for the decision, and makes the right of seeking reconsideration more meaningful.” (*Hamilton, supra*, at p. 476 citing *Evans v. Workmen’s Comp. Appeals Bd.* (1968) 68 Cal.2d 753, 755 [33 Cal.Comp.Cases 350].)

It is well established that decisions by the Appeals Board must be supported by substantial evidence. (Lab. Code, §§ 5903, 5952(d); *Lamb v. Workmen’s Comp. Appeals Bd.* (1974) 11 Cal.3d 274 [39 Cal.Comp.Cases 310]; *Garza v. Workmen’s Comp. Appeals Bd.* (1970) 3 Cal.3d 312 [35 Cal.Comp.Cases 500]; *LeVesque v. Workmen’s Comp. Appeals Bd.* (1970) 1 Cal.3d 627 [35 Cal.Comp.Cases 16].) “The term ‘substantial evidence’ means evidence which, if true, has probative force on the issues. It is more than a mere scintilla, and means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion...It must be reasonable in nature, credible, and of solid value.” (*Braewood Convalescent Hospital v. Workers’ Comp. Appeals Bd. (Bolton)* (1983) 34 Cal.3d 159, 164 [48 Cal.Comp.Cases 566], emphasis removed and citations omitted.) Medical evidence is required if there is an issue regarding the compensability of the claim. (Lab. Code, §§ 4060(c)(d), 4061(i), 4062.3(l).) A medical opinion must be framed in

terms of reasonable medical probability, it must be based on an adequate examination and history, it must not be speculative, and it must set forth reasoning to support the expert conclusions reached. (*E.L. Yeager Construction v. Workers' Comp. Appeals Bd. (Gatten)* (2006) 145 Cal.App.4th 922, 928 [71 Cal.Comp.Cases 1687]; *Escobedo v. Marshalls* (2005) 70 Cal.Comp.Cases 604, 620-621 (Appeals Bd. en banc).) “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.” (*Heggin v. Workmen’s Comp. Appeals Bd.* (1971) 4 Cal.3d 162, 169 [36 Cal.Comp.Cases 93].)

Based on our review of the record, we are not persuaded that the record is properly developed. There is a lack of substantial medical evidence to support the WCJ’s finding that applicant did not sustain injury to his alleged non-psychiatric body parts. By July 25, 2025, applicant had alleged injury to his head in the form of headaches, teeth, and circulatory system. In the initial evaluation on July 29, 2025, Dr. Abenes noted applicant’s complaints related to his heart, headaches, and teeth. (Applicant Exhibit #1, at pp. 5, 7, 13.) Substantial medical evidence regarding causation to the alleged non-psychiatric body parts is necessary to render a determination on the issue of whether or not applicant sustained a separate and distinct injury from the psychiatric injury and that, in turn, is not subject to section 3208.3(d).

The nature and cause of injury are proper subjects for medical expert opinion, and the Appeals Board has 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” and may not leave matters undeveloped where it is clear that additional discovery is needed. (*Kuykendall v. Workers' Comp. Appeals Bd.* (2000) 79 Cal.App.4th 396, 403-404 [65 Cal.Comp.Cases 264].) The “Board may act to develop the record with new evidence if, for example, it concludes that neither side has presented substantial evidence on which a decision could be based, and even that this principle may be appropriately applied in favor of the employee.” (*San Bernardino Cmty. Hosp. v. Workers' Comp. Appeals Bd. (McKernan)* (1999) 74 Cal.App.4th 928, 937-938 [64 Cal.Comp.Cases 986].)

#### IV.

We observe that applicant's failure to file a petition for removal did not preclude him from raising the issue at trial, and the issue of whether further development of the record is needed was appropriately deferred to the trial WCJ.

Accordingly, we grant applicant's Petition, rescind the February 2, 2026 F&O, substitute new Findings of Fact, and return the matter to the WCJ for further proceedings consistent with this opinion. Upon return to the trial level, we recommend that the WCJ consider what further development of the record is appropriate with respect to applicant's claims to his teeth, head, and circulatory system.

For the foregoing reasons,

**IT IS ORDERED** that applicant's Petition for Reconsideration of Findings and Order issued by the WCJ on February 2, 2026 is **GRANTED**.

**IT IS FURTHER ORDERED**, as the Decision After Reconsideration of the Workers' Compensation Appeals Board, that the February 2, 2026 Findings and Order is **RESCINDED** and the following is **SUBSTITUTED** therefor:

**FINDINGS OF FACT**

1. Applicant, Alvaro Mata, born [], was employed by Nvidia as a software engineer in Santa Clara County, California, from 12/4/2023 through 5/17/2024, a period of less than 6 months, and claims to have sustained injury arising out of and in the course of employment to his psych, teeth, head, and circulatory system.
2. On the date of alleged injury, the employer’s workers’ compensation carrier was Travelers Property Casualty Company of America.
3. Compensation for the claimed psychiatry injury is barred by the Labor Code section 3208.3(d). All other body parts are deferred.
4. All other issues are deferred with jurisdiction reserved.

**WORKERS’ COMPENSATION APPEALS BOARD**

/s/ KATHERINE A. ZALEWSKI, CHAIR

**I CONCUR,**

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

/s/ LISA A. SUSSMAN, DEPUTY COMMISSIONER



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

**May 8, 2026**

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

**ALVARO MATA  
ABRAMSON LABOR GROUP  
LAURA CHAPMAN**

**JL/abs**

I certify that I affixed the official seal of the Workers’ Compensation Appeals Board to this original decision on this date. *abs*