

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

ALDA JUAREZ, *Applicant*

vs.

**ABM ONSITE SERVICES WEST, INC., permissibly self-insured;
administered by SEDGWICK, *Defendants***

**Adjudication Number: ADJ13577596
Marina del Rey District Office**

**OPINION AND ORDER
GRANTING PETITION FOR
RECONSIDERATION**

Applicant seeks reconsideration of the August 25, 2025 Findings of Fact issued by the workers' compensation administrative law judge (WCJ). Therein, the WCJ found that applicant sustained injury arising out of and in the course of her employment (AOE/COE) to her back, with all other alleged body parts determined to be non-industrial.

Applicant contends that the WCJ erred in failing to develop the record prior to finding applicant's Parkinson's disease non-industrial since the Qualified Medical Evaluator (QME), Timur S. Durrani, M.D., requested he be provided records regarding the fumigation and chemicals used for same in the building where applicant worked, and opined that without the records there was insufficient evidence to provide an opinion on industrial causation. We did not receive an answer from defendant.

The WCJ issued a Report and Recommendation (Report) recommending that the Petition be denied.

We have considered the Petition and the contents of the Report. Based upon our preliminary review of the record, we will grant reconsideration, and we will order that this matter be referred to a workers' compensation administrative law judge or designated hearing officer of the Appeals Board for a status conference.

Our order granting reconsideration is not a final order, and we will order that a final decision after reconsideration is deferred pending further review of the merits of the Petition and

further consideration of the entire record in light of the applicable statutory and decisional law. Once a final decision after reconsideration is issued by the Appeals Board, any aggrieved person may timely seek a writ of review pursuant to Labor Code¹ section 5950 et seq.

I.

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. (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 September 29, 2025, and 60 days from the date of transmission is Friday, November 28, 2025, the day after Thanksgiving. The Workers’ Compensation Appeals Board offices are closed on that date. Therefore, the next business day is Monday, December 1, 2025. (See Cal. Code Regs., Tit. 8 section 10600(b).)² This decision is issued by or on Monday, December 1, 2025, so that we have timely acted on the petition as required by section 5909(a).

¹ All further statutory references are to the Labor Code, unless otherwise noted.

² 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.

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 for the Report, the Report was served on September 29, 2025, and the case was transmitted to the Appeals Board on September 29, 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 September 29, 2025.

II.

Preliminarily, we note the following in our review:

The matter was set for trial on July 24, 2025. At that time, the parties went on the record and stipulated that applicant, while employed during the period December 22, 2008 to June 30, 2016, as a janitor, Occupational Group Number 340, at Los Angeles, California, by ABM Onsite Services West, Inc., claims to have sustained injury arising out of and in the course of employment (AOE/COE) to her right hand, back, and Parkinson's disease. (Minutes of Hearing and Summary of Evidence - Trial (MOH), 7/24/25, at p. 2:20-23.)

The issue at trial was injury AOE/COE, with defendant raising the affirmative defenses of statute of limitations, and post-termination. Other issues were deferred. (*Id.* at p.3:4-8).

The WCJ issued Findings of Fact on August 25, 2025 finding, in pertinent part, that “applicant sustained injury AOE/COE to her back, with all other alleged body parts determined to be non-industrial.” The WCJ further found that defendant failed to show that the exception to the post-termination defense under Labor Code Section 3600 (a)(10)(D) does not apply along with finding the statute of limitations defense inapplicable. (Findings of Fact, 8/25/25, at p.1.) The WCJ further states in the Opinion on Decision:

“Based on the medical report of QME Dr. Timur S. Durrani dated August 06, 2024, it is found that applicant’s Parkinson Disease was not caused by her workplace exposure during the period of December 22, 2008, to June 20, 2016. Dr. Lee opined that there was insufficient evidence to conclude with reasonable medical

probability, that Applicant's Parkinson's Disease was caused by her workplace exposure. Dr. Donald Lee's report November 24, 2023, was admitted into evidence but found not to constitute substantial medical evidence on the issue of compensability regarding Applicant's Parkinson's Disease.” (*Id.*, at p. 2.)

On July 3, 2023, applicant was evaluated by QME Dr. Durrani in the field of toxicology. Dr. Durrani authored a medical report dated August 6, 2024, in which he opined:

The cleaning chemicals she worked with have not been associated with the development of Parkinson's disease.

It is unclear what fumigation chemicals she was exposed to or under what conditions. An association between pesticide exposure and Parkinson's disease does exist. However, it is unclear what chemical was used in her building and the frequency and intensity of exposure. Please provide the records regarding the fumigation that occurred in the building she worked in.

(Ex. 5, 8/6/24, at p. 23.)

On October 15, 2024, defendant filed a Declaration of Readiness to Proceed (DOR) on all issues. A mandatory settlement conference (MSC) was held on November 27, 2024, at which time the parties completed and executed a joint pre-trial conference statement (PTCS). In addition to raising the issue of injury AOE/COE, and other issues, the PTCS indicates that the “QME Dr. Durrani did not review fumigation records that were subpoenaed but not provided by Occidental Petroleum from 2006 to 6/30/21 where the applicant work, and from Trammell Crow Property Manager.” (PTCS, 11/27/24, p. 3.)

Thereafter, the case was set for trial and the WCJ issued an Order as follows:

ORDER TO PRODUCE Records

It is Ordered that Trammell Crow Company LLC, provide copies of records regarding fumigations done at Occidental Petroleum Corp. at 10889 Wilshire Blvd., Los Angeles California 90024 between 6-1-06 and 6/-3-16. These records are to be served on Law Offices of Leo Hernandez (3330 Pico Blvd., Suite 2308, Santa Monica, CA 90405 and MSKW Westminster (13950 Milton Ave., Suite 200A, Westminster CA 92683).

It is So Ordered.

(MOH, 5/22/25, at p. 2.)

Based upon the existing record, it appears that the Minutes of Hearing were served by defendant on Trammell Crow Company, LLC, but not on Occidental Petroleum on June 4, 2025. Neither of the two parties for which the Order issued appear to be parties to this action. We further note that there are no supplemental medical reports issued by Dr. Durrani subsequent to this date reviewing any such records as were requested by subpoena and subsequently ordered by the WCJ.

On July 24, 2025, the parties completed a 1st Amended Pre-Trial Conference Statement (PTCS) wherein the issues listed were injury AOE/COE and the defenses of post-termination and the statute of limitations. The issues of an Employment Development Department (EDD) lien and attorney fees were deferred. (1st Amended PTCS, 7/24/25.), The matter was thereafter tried and submitted for decision.

On August 25, 2025, the WCJ issued Findings of Fact wherein he found that applicant sustained injury AOE/COE to her back, with all other alleged body parts, including hand and Parkinson's disease, determined to be non-industrial.

It is from these Findings of Fact that applicant seeks reconsideration.

III.

It is well established that decisions by the Appeals Board must be supported by substantial evidence. (Lab. Code, § 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.* (1970) 3 Cal.3d 312, 317 [35 Cal.Comp.Cases 500]; *LeVesque v. Workmen's Comp. Appeals Bd.* (1970) 1 Cal.3d 627, 635 [35 Cal.Comp.Cases 16].)

In this regard, it has been long established that, in order to constitute substantial evidence, a medical opinion must be predicated on reasonable medical probability. (*McAllister v. Workmen's Comp. Appeals Bd.* (1968) 69 Cal.2d 408, 413, 416-417, 419 [33 Cal.Comp.Cases 660]; *Travelers Ins. Co. v. Industrial Acc. Com. (Odello)* (1949) 33 Cal.2d 685, 687-688 [14 Cal.Comp.Cases 54]; *Rosas v. Workers' Comp. Appeals Bd.* (1993) 16 Cal.App.4th 1692 [58 Cal.Comp.Cases 313].)

The WCAB has a duty to further develop the record when there is a complete absence of (*Tyler v. Workers' Comp. Appeals Bd.* (1997) 56 Cal.App.4th 389, 393-395 [62 Cal.Comp.Cases 924]) or even insufficient (*McClune v. Workers' Comp. Appeals Bd.* (1998) 62 Cal.App.4th 1117, 1121-1122 [63 Cal.Comp.Cases 261]) evidence on an issue.

The WCAB also 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.)

Here, applicant filed a petition for reconsideration which takes issue from the WCJ's finding that applicant's Parkinson Disease was non-industrial, and that the WCJ has a duty to develop the record when the existing medical reporting does not constitute substantial medical evidence. (Petition, at p. 2:7-9.)

The WCJ's Report addresses the issue of injury AOE/COE for Parkinson's Disease opining that applicant did not meet her burden of proving industrial injury by a preponderance of the evidence:

On August 25, 2025, the Court issued its Findings of Fact in which Applicant was found to have failed to meet her burden of proving by a preponderance of the evidence that she sustained injury arising out of and in the course of her employment with regard to her Parkinson's disease. It is from the finding that Applicant failed to meet her burden regarding AOE/COE with regard to her Parkinson's disease, that Applicant seeks reconsideration.
(Report, 9/29/25, at p. 3.)

We further note that Dr. Durrani's single panel QME report dated August 6, 2024 directly states a need for fumigation records in order determine workplace exposure with reasonable medical probability:

CONCLUSIONS

It is unclear what fumigation chemicals she was exposed to or under what conditions. An association between pesticide exposure and Parkinson's disease does exist. However, it is unclear what chemical was used in her building and the frequency and intensity of exposure. Please provide the records regarding the fumigation that occurred in the building she worked in.

CAUSATION OF THE INJURY

There is insufficient evidence exists to conclude, with reasonable medical probability, that Alda Juarez's Parkinson's disease was caused by her workplace exposures.
(Exhibit 5, Dr. Durrani, 8/6/24, at p. 23.)

While Dr. Durani confirms a known association between pesticide exposure and Parkinson's disease he indicates that the frequency and exposure to pesticide chemicals is unclear. He requests the records regarding the fumigation schedule in applicant's work building, however same was not obtained by either party, despite the request by QME Dr. Durrani to review same in

his August 6, 2024 reporting, and the Order of the WCJ on May 22, 2025, two months prior to trial, for production of same by Trammell Crow Company, LLC, a non-party to this action.

As such, it appears the record may not be sufficient to support the decision, order, and legal conclusions of the WCJ; and/or whether further development of the record may be necessary. Thus, we will order the matter to a status conference before a workers' compensation administrative law judge or designated hearing officer of the Appeals Board.

IV.

Finally, we observe that under our broad grant of authority, our jurisdiction over this matter is continuing.

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].) Thus, once reconsideration has been granted, the Appeals Board has the full power to make new and different findings on issues presented for determination at the trial level, even with respect to issues not raised in the petition for reconsideration before it. (See Lab. Code, §§ 5907, 5908, 5908.5; see also *Gonzales v. Industrial Acci. Com.* (1958) 50 Cal. 2d 360, 364.) “[t]here is no provision in chapter 7, dealing with proceedings for reconsideration and judicial review, limiting the time within which the commission may make its decision on reconsideration, and in the absence of a statutory authority limitation none will be implied.”; see generally Lab. Code, § 5803 [“The WCAB has continuing jurisdiction over its orders, decisions, and awards. . . . At any time, upon notice and after an opportunity to be heard is given to the parties in interest, the appeals board may rescind, alter, or amend any order, decision, or award, good cause appearing therefore.”].)

“The WCAB . . . is a constitutional court; hence, its final decisions are given res judicata effect.” (*Azadigian v. Workers' Comp. Appeals Bd.* (1992) 7 Cal.App.4th 372, 374 [57 Cal.Comp.Cases 391; see *Dow Chemical Co. v. Workmen's Comp. App. Bd.* (1967) 67 Cal.2d 483, 491 [62 Cal.Rptr. 757, 432 P.2d 365]; *Dakins v. Board of Pension Commissioners* (1982) 134 Cal.App.3d 374, 381 [184 Cal.Rptr. 576]; *Solari v. Atlas-Universal Service, Inc.* (1963) 215 Cal.App.2d 587, 593 [30 Cal.Rptr. 407].) A “final” order has been defined as one that either “determines any substantive right or liability of those involved in the case” (*Rymer v. Hagler*

(1989) 211 Cal.App.3d 1171, 1180; *Safeway Stores, Inc. v. Workers' Comp. Appeals Bd. (Pointer)* (1980) 104 Cal.App.3d 528, 534-535 [45 Cal.Comp.Cases 410]; *Kaiser Foundation Hospitals v. Workers' Comp. Appeals Bd. (Kramer)* (1978) 82 Cal.App.3d 39, 45 [43 Cal.Comp.Cases 661]), or determines a “threshold” issue that is fundamental to the claim for benefits. Interlocutory procedural or evidentiary decisions, entered in the midst of the workers’ compensation proceedings, are not considered “final” orders. (*Maranian v. Workers' Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1070, 1075 [65 Cal.Comp.Cases 650].) [“interim orders, which do not decide a threshold issue, such as intermediate procedural or evidentiary decisions, are not ‘final’ ”]; *Rymer, supra*, at p. 1180 [“[t]he term [‘final’] does not include intermediate procedural orders or discovery orders”]; *Kramer, supra*, at p. 45 [“[t]he term [‘final’] does not include intermediate procedural orders”].)

Section 5901 states in relevant part that:

“No cause of action arising out of any final order, decision or award made and filed by the appeals board or a workers’ compensation judge shall accrue in any court to any person until and unless the appeals board on its own motion sets aside the final order, decision, or award and removes the proceeding to itself or if the person files a petition for reconsideration, and the reconsideration is granted or denied. ...”

Thus, this is not a final decision on the merits of the Petition for Reconsideration, and we will order that issuance of the final decision after reconsideration is deferred. Once a final decision is issued by the Appeals Board, any aggrieved person may timely seek a writ of review pursuant to sections 5950 et seq.

Accordingly, we grant applicants’ Petition for Reconsideration, and order that this matter be set for a status conference, and order that a final decision after reconsideration is deferred pending further review of the merits of the Petition for Reconsideration and further consideration of the entire record in light of the applicable statutory and decisional law.

For the foregoing reasons,

IT IS ORDERED that applicant’s Petition for Reconsideration of the Findings of Fact issued on August 25, 2025 by a workers’ compensation administrative law judge is **GRANTED**.

IT IS FURTHER ORDERED that this matter will be set for a Status Conference with a workers' compensation administrative law judge or assigned designee of the Appeals Board. Notice of date, time, and format of the conference will be served separately, in lieu of an in person appearance at the San Francisco office of the Appeals Board.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

/s/ JOSÉ H. RAZO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

NOVEMBER 25, 2025

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

**ALDA JUAREZ
LEO H. HERNANDEZ, ATTORNEY AT LAW
MISA STEFEN KOLLER WARD, LLP**

VC/bp

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