

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

MARIA VALENCIA, *Applicant*

vs.

**TRAFFIX DEVICES, INC.; GREAT AMERICAN ALLIANCE INSURANCE
COMPANY, Administered By STRATEGIC COMP CLAIMS, *Defendants***

**Adjudication Number: ADJ16367723
Pomona District Office**

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

Applicant and defendant each seek reconsideration of a workers' compensation administrative law judge's (WCJ) Findings and Order of August 1, 2025, wherein it was found that "applicant did not sustain industrial injury to her circulatory system, nervous system, head, or brain as a result of an alleged February 18, 2022 specific injury or an alleged cumulative trauma injury from November 1, 2005 through February 15, 2022." It appears that the above claimed body parts encompass those involved in a February 18, 2022 stroke. The parties had stipulated that applicant claimed a specific February 18, 2022 injury to her "circulatory system, nervous system, respiratory system, head, brain, chemical exposure, right fingers, right hand, right arm, excretory system, right leg, right ankle, right foot, and right toes while working as a Press Operator/Assembler for TrafFix Devices, Inc. at Adelanto, California." In the decision under review, the WCJ ordered that the stipulation be amended from a February 18, 2022 specific injury to a cumulative injury with dates of exposure between November 1, 2005 and February 15, 2022. As noted above, the WCJ found that applicant did not sustain industrial injury in the form of stroke. With regard to the claims of industrial injury to "her respiratory system due to chemical exposure, right fingers, right arm, excretory system, right leg, right ankle, right foot, and right toes," the WCJ deferred the issue of industrial injury pending further development of the medical record. The

issues of defendant's defenses of failure to timely report the injury and post-termination claim (Lab. Code, § 3600, subd. (a)(10)) were also deferred.

Applicant contends in her Petition that the WCJ erred in finding no industrial injury in the form of stroke, arguing that this issue should have been deferred pending further development of the record along with the other body parts and issues. Defendant contends in its Petition that the WCJ erred in amending the claim from one of a specific injury to a cumulative injury and in ordering further development of the record with regard to the "respiratory system due to chemical exposure, right fingers, right arm, excretory system, right leg, right ankle, right foot, and right toes." Defendant filed an Answer to applicant's Petition and the WCJ filed a Report and Recommendation on Petition for Reconsideration addressing the applicant's Petition and then a Supplemental Report addressing the defendant's Petition.

As explained below we will deny defendant's petition as far as the issue of further development of the record, because this is a nonfinal order and defendant has not shown irreparable harm. However, we will otherwise grant both petitions and defer the issues of industrial injury in the form of stroke and the issue of amendment of the parties' stipulation regarding whether this was correctly presented as a specific or cumulative injury so that all issues in this case regarding industrial injury may be determined at the same time.

Preliminarily, we note that former Labor Code 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, Labor Code 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 Labor Code 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 August 20, 2025 and 60 days from the date of transmission is Sunday, October 19, 2025. The next business day that is 60 days from the date of transmission is Monday, October 20, 2025. (See Cal. Code Regs., tit. 8, § 10600(b).)¹ This decision is issued by or on October 20, 2025, so we have timely acted on the petition as required by Labor Code section 5909(a).

Labor Code 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. Labor Code 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 and Recommendation by the workers’ compensation administrative law judge, the Report was served on August 20, 2025, and the case was transmitted to the Appeals Board on August 20, 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 Labor Code section 5909(b)(1) because service of the Report in compliance with Labor Code section 5909(b)(2) provided them with actual notice as to the commencement of the 60-day period on August 20, 2025.

Turning to the merits, with regard to defendant’s contention that the WCJ should have not ordered further development of the record, we note that a decision issued by the WCAB may address a hybrid of both threshold and interlocutory issues. If a party challenges a hybrid decision, the petition seeking relief is treated as a petition for reconsideration because the decision resolves a threshold issue. However, if the petitioner challenging a hybrid decision only disputes the WCJ’s determination regarding interlocutory issues, then the Appeals Board will evaluate the issues raised by the petition under the removal standard applicable to non-final decisions. Although the decision

¹ 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.

here contains a finding that is final (injury to the head and neck), defendant's Petition only challenges the non-final order regarding discovery. Since orders pertaining to discovery are not final orders, these issues are subject to the removal standard rather than the reconsideration standard. (See *Capital Builders Hardware, Inc. v. Workers' Comp. Appeals Bd. (Gaona)* (2016) 5 Cal.App.5th 658 [81 Cal.Comp.Cases 1122].) The removal standard requires "significant prejudice" or "irreparable harm." (Cal. Code Regs, tit. 8, § 10955, subd. (a).) We find that this standard has not been met as defendant will be able to present all applicable defenses and will be able to question any reporting physician regarding these deferred body parts.

However, we will otherwise grant reconsideration and defer the issues of industrial injury in the form of a stroke and the issue of whether – in the event applicant sustained any industrial injury – the injury was specific or cumulative and whether the WCJ was correct in recasting the injury was a cumulative injury despite the operative pleadings and stipulations.

Although we acknowledge that the panel qualified medical evaluators in neurology and internal medicine were quite unequivocal in finding on the current record that applicant's stroke was caused by a nonindustrial, congenital condition, we believe that the WCJ should not issue piecemeal findings regarding the disparate body parts and legal issues. There should be a single final decision with regard to all body parts and legal defenses (failure to timely report the injury and the post-termination defense) so that there is only a single time period to seek review from a finding of industrial injury or lack thereof. Defendant is not prejudiced by this deferral since discovery remains open on other body parts and the issue of defendant's legal defenses has been deferred. After the issue of the other body parts is developed, the internist and the neurologist qualified medical evaluators that have already reported in the case may be asked if any new evidence has caused them to alter their conclusions that industrial factors were not a contributing cause of applicant's stroke.

Likewise, with regard to the issue of whether applicant sustained a specific or cumulative injury, given that there is not yet any evidence of any industrial injury, and further development of the record was ordered, this issue is premature. Concurrently with any findings of industrial injury, the WCJ should determine whether any injury was specific or cumulative, and whether the findings could be made at variance with the pleadings and stipulations. Both parties may raise relevant evidence and legal argument at that time.

We therefore grant both petitions for reconsideration and amend the WCJ's decision to reflect that the issue of industrial injury with regard to all body parts is deferred as is the issue of whether applicant sustained cumulative or industrial injury, if any. We express no opinion on the ultimate resolution of any issue in this case.

For the foregoing reasons,

IT IS ORDERED that Applicant's and Defendant's respective petitions for reconsideration of the Findings and Order of August 1, 2025 is **GRANTED**.

IT IS FURTHER ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the Findings and Order of August 1, 2025 is **AMENDED** as follows:

STIPULATED FACTS

1. The Applicant, Maria Valencia, [age 43 on the date of the alleged injury], claims to have sustained a specific on February 18, 2022 to her circulatory system, nervous system, respiratory system, head, brain, chemical exposure, right fingers, right hand, right arm, excretory system, right leg, right ankle, right foot, and right toes while working as a Press Operator/Assembler for TrafFix Devices, Inc. at Adelanto, California.

FINDINGS OF FACT

2. The issue of whether any injury is specific or cumulative and whether a cumulative injury may be found despite the pleadings and stipulations in this case is deferred, with jurisdiction reserved.

3. Whether this claim should be barred for Applicant's failure to report an injury within 30 days per Labor Code sections 5400 and 5403 is hereby deferred.

4. Whether this claim as should be barred as being filed post-termination per Labor Code section 3600(a)(10) is hereby deferred.

5. In accordance with the holding in *James McDuffie v. Los Angeles County MTA* (2002) 67 CCC 138, further development of the record is necessary to address whether the Applicant sustained an industrial injury on February 18, 2022 and/or from November 1, 2005 through February 15, 2022 to any claimed body parts.

ORDER

IT IS HEREBY ORDERED THAT:

- a) Further development of the record is necessary to address whether the Applicant sustained an industrial cumulative trauma injury on February 18, 2022 and/or November 1, 2005 through February 15, 2022 to any claimed body parts.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ JOSEPH V. CAPURRO, COMMISSIONER

/s/ PAUL F. KELLY, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

October 20, 2025

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

**MARIA VALENCIA
PEREZ LAW
ALBERT & MACKENZIE**

DW/oo

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