WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

HONEY LOVE, *Applicant*

vs.

STARBUCKS COFFEE COMPANY;
permissibly self-insured and administered by SEDGWICK CLAIMS MANAGEMENT SERVICES, *Defendants*

Adjudication Number: ADJ357552
Salinas District Office

OPINION AND ORDER GRANTING PETITION FOR RECONSIDERATION AND DECISION AFTER RECONSIDERATION

Applicant seeks reconsideration of the Findings & Award issued by the workers' compensation administrative law judge (WCJ) on July 23, 2026. Therein, the WCJ found that applicant, while employed as a shift supervisor on September 27, 2004, sustained injury arising out of and in the course of employment (AOE/COE) to her cervical spine and lumbar spine, and sustained psychological injury, urological injury and headaches as a compensable consequence of the work-related injury. The WCJ further found that applicant became permanent and stationary on August 8, 2023; that the injury herein caused 48% permanent disability; that "[a]pplicant's continuing objection to proceeding to trial, and request to have the matter taken off calendar to complete additional discovery was considered and denied;" that defendant's exhibits G, H, I, K, L, M, and N (reports of Dennis Nehamen, Ph.D.), are admitted into evidence; and that the December 16, 2004 report of Phillip McCormick, M.D., (Exhibit 54) is not admitted. Based on these findings, the WCJ awarded permanent disability, payable commencing August 8, 2023.

Applicant contends that the WCJ erred in finding 48% permanent disability and in determining that August 8, 2023 is the commencement date for payment of permanent disability indemnity. Applicant argues that the WCJ erred in relying on Dr. Nehamen's reports which are inadmissible and not substantial medical evidence; that the WCJ should have admitted and relied

on Dr. McCormick's December 16, 2004 report; that the decision to omit permanent disability related to applicant's psychiatric and sleep injury is not based on admissible or substantial medical evidence; that the record should be further developed; and that the WCJ used the wrong Permanent Disability Rating Schedule.

Defendant filed an Answer. The WCJ issued a Report and Recommendation on the Petition for Reconsideration (Report) recommending that we deny reconsideration.

We have considered the Petition for Reconsideration, the Answer, and the contents of the Report, and we have reviewed the record in this matter. Based upon our review and for the reasons stated below, we will grant reconsideration, amend the July 23, 2026 Findings and Award to defer the issues of permanent disability and attorney fees and to order further development of the record. We will otherwise restate the WCJ's findings.

I.

Petitions for reconsideration filed on or after July 14, 2026 are subject to section 5909, which states 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.
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> (b)
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> (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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> (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 September 11, 2026 and 60 days from the date of transmission is November 10, 2026. This decision is issued by or on November 10, 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 act on a petition. Section 5909(b)(2) provides that service of the Report shall be notice of transmission.

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

II.

The WCJ provided the following discussion in the Report:

> FACTS
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> The Applicant, Honey Love, born [], while employed as a shift supervisor on September 27, 2004, by Starbucks Coffee Company, in California, sustained admitted injury arising out of and in the course of employment to her back and psyche. The parties first appeared for commencement of trial on September 27, 2017, before Judge George Schulman. The stipulations and issues from the pre-trial conference statement were read into the record and exhibits were requested to be admitted. Objections were noted, exhibits were marked for identification and some of the exhibits were admitted into evidence. No testimony was taken during that proceeding and the matter was continued for further proceedings and testimony. Subsequent to that hearing, the matter was transferred to the current WCJ, as Judge Schulman was no longer available to hear the matter. The matter was subsequently continued several times due to the unavailability of the Applicant (see Minutes of Hearing dated 3/7/18. 5/24/18, 8/21/18, 2/26/19, 9/24/19, 12/17/19, 6/2/20, 7/16/20 and 9/15/20).
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> The Applicant's testimony was completed, and the matter was submitted on June 2, 2021. After review of the medical evidence, a Findings and Order issued on July 23, 2021, in which it is found that 1) the Applicant sustained injury arising out of and in the course of employment to her back and psyche and may have sustained injury as headaches and urological injury as compensable consequences; 2) the applicant did not sustain injury to her left ankle or sustain a sleep disorder as a result of the September 27, 2004 injury; 3) further development of the record was necessary regarding Applicant's permanent

disability, apportionment, need for further medical treatment and attorney's fees. In the Order it specifies that the parties are to obtain an evaluation of the Applicant and supplemental report from the AME to review treatment records obtained subsequent to his final report, to confirm permanent and stationary status, and to address whether either the headaches or urological injury should be deferred to a specialist in another field as suggested in the transcript of his deposition, Findings and Order of July 23, 2021, EAMS ID Number 74491936.

The parties proceeded with additional discovery, and after receipt, the matter was resubmitted on November 2, 2025. Findings and Award issued on initially on January 21, 2026, and as amended on February 4, 2026, after which it was ascertained that a dispute as to the proper means of rating was necessary, and the Findings and Award was rescinded. The case was resubmitted after the parties were provided an opportunity to present additional evidence, on April 28, 2026. Findings and Award issued on July 23, 2026. It is from this Findings and Award issued on July 23, 2026, that Applicant seeks reconsideration as to the date of commencement of permanent disability; as to the rating of permanent impairment, related both to specific components of injury, and the use of the 2005 Permanent Disability Rating Schedule; as to the exclusion of Exhibit 54; as to the admissibility of the reports of Dr. Nehamen; and a need to further develop the record.

[]
DISCUSSION

The Applicant in this case sustained injury on September 27, 2004. This case first proceeded to trial on September 27, 2017, prior to that, the parties initially appeared for an MSC on May 8, 2017, which was specifically continued to allow for the Applicant's attorney to obtain additional discovery that had not been completed. Specifically, the minutes of hearing indicate "AA to obtain review of [] (Defendant's) QME report." EAMS ID Number 63837140. Two months later in July of 2026, the parties returned to MSC and the case was set for trial. Applicant did not file a Petition for Removal to oppose the trial setting in order to obtain any additional discovery, if discovery was incomplete at that time. At the time of trial in September 2017, Applicant requested admission of 27 exhibits. None of these exhibits was obtained in 2017, after the initial MSC. Applicant did request admission of two reports of Applicant's QME in psyche, Dr. Konstat's reports of April 14, 2016 and December 1, 2014, which were requested to be admitted into evidence at trial on September 27, 2017 as Applicant's Exhibits 4 and 5 (EAMS ID Numbers 65120839 and 65120842). Applicant was not denied due process or the opportunity to complete all necessary discovery, and was specifically provided with notice and an opportunity in order to complete discovery prior to the trial setting. The Minutes of Hearing for the May 8, 2017 MSC are evidence that this opportunity was provided.

Applicant was given the opportunity to complete discovery prior to the trial setting and made the conscious choice not to obtain any additional discovery after the initial MSC in May of 2017. Applicant's counsel took no effort to dispute the trial setting after the MSC in July of 2017, if the Applicant were truly aggrieved by the trial setting and had further discovery that was necessary to complete. At the time of trial in 2017, the Agreed Medical Evaluator, Dr. Seymour Alban had found the applicant to be Permanent and Stationary as to the orthopedic injuries, and both QME's Dr. Elena Konstat and Dr. Dennis Nehamen, one doctor chosen by each of the parties to evaluate the Applicant's psychological injury allegations, had issued reports assessing the permanent impairment as to the Applicant's injury to psyche.

After multiple continuances and multiple days of trial, the case was submitted and Findings and Order issued on July 23, 2021. The Findings and Order included that the Applicant had sustained injury to her back and psyche, but did not sustain injury to her ankle or sustain a sleep disorder as a result of the work related injury. Issues of permanent disability, apportionment, need for further medical treatment and attorney's fees were deferred pending further development of the record re-evaluation with AME Dr. Alban to review additional records, address the headaches and confirm P&S status and permanent impairment for the spine injury, and address whether a specialist in another field is needed to address the urological injury, as suggested in his cross-examination of November 1, 2016. The Findings and Order did not indicate that further development of the record was necessary for the psychological injury. The assessment of permanent impairment for the entire injury claim was deferred, as it was anticipated it could change based on medical determinations related to the urological injury.

As Dr. Alban was no longer available for re-evaluation and review of additional records, the parties proceeded with Dr. Peter Newton, with an order issuing appointing Dr. Newton as the evaluating physician, an order for an additional QME panel in Urology issued on October 30, 2024. The parties were again set for trial on September 17, 2025, and additional reports of Dr. Peter Newton and Dr. Abdo Faddoul were admitted into evidence, providing the additional evidence necessary to determine the full range of permanent impairment, apportionment, need for further medical treatment and attorney's fees. Findings and Award issued on January 21, 2026. A week after the decision was issued, Defendants filed a petition to correct a clerical error related to the proper schedule for rating permanent disability. Time was given for Applicant's counsel to respond, but no response was filed. The Findings and Award were amended and issued on February 4, 2026, with the correction of the error pointed out by the Defendants. Applicant thereafter filed an Objection to the Amended rating of permanent impairment and a Petition for Reconsideration which included a dispute as to the proper rating schedule. As the amending of the F&A had given rise to additional dispute in the Petition for Reconsideration, the Amended Findings and Award was rescinded and vacated to have the parties

"address the permanent impairment and the rating thereof". The parties appeared at conference on March 26, 2026, at which time the parties were informed and the minutes included, that the matter would be resubmitted at the continued MSC and the parties were to provide their proposed ratings of permanent impairment. Although the parties chose different doctors reports and rated the reports differently, both parties provided string ratings. Applicant's filing of their string rating included a request to admit additional exhibits, despite trial having already been completed.

On April 15, 2026, the parties appeared and the case was resubmitted for decision. Each party had provided their proposed rating of permanent impairment and Applicant requested admission of additional exhibits which had not been uploaded or served. Applicant was allowed two additional days to upload and serve the additional exhibits requested to be admitted, Defendants were allowed 10 days from receipt to object to admission of the exhibits. The case was resubmitted on April 28, 2026. Findings and Award as to the remaining issues of permanent impairment, apportionment, need for further medical treatment and attorney's fees was issued on July 23, 2026.

Further Development of the Record as to Psyche Injury and Sleep Disorder

The Findings and Order issued on July 23, 2021, includes a finding of psychological injury, but deferred the assessment of permanent impairment, as further development of the record as to urological injury was needed before the full level of Applicant's permanent impairment could be determined. The Findings and Order were specific as to the areas where development was needed, and it did not include development related to the psychological injury. Applicant had been given time to address the psychological injury with a supplemental report prior to trial and despite a continuance of the MSC specifically to allow additional discovery, did not pursue it, nor was there any attempt to have the order setting the case for trial challenged.

Applicant's counsel had the opportunity to have Dr. Konstat review the social media posts and video footage that was reviewed by Dr. Nehamen, but chose not to do so. It is unclear why the opportunity was not taken. It may have been a strategic litigation tactic, as the video and social media evidence had been objected to, or it may have been mere oversight. Whatever the reason, the opportunity was afforded to the Applicant before proceeding to trial. The medical evidence as to the psychological injury was found to be substantial, and not in need of further development. No indication of a need to further develop the record as to the psychological injury is included in the Findings and Order issued on July 23, 2021, and the Applicant did not request modification of the decision or request reconsideration, based on any deficiency in the medical reporting of either Dr. Konstat or Dr. Nehamen.

The Findings and Order of July 23, 2021 also included a finding that there was no work related injurious sleep disorder or injury to the ankle. This finding was not disputed by Applicant's counsel. No Petition for Reconsideration was filed by the Applicant. Therefore, those determinations are final. A Petition for Removal was filed by Defendants, disputing the need for further development of the record. Defendants' petition was denied. The parties obtained additional reporting from Dr. Peter Newton to clarify the extent of permanent impairment to the back and apportionment as well as address the headaches, and they obtained reporting to address the urological complaints, which included additional permanent impairment.

Based on the Findings and Order issued on July 23, 2021, which was never rescinded or vacated, the applicant's claim of injury as sleep disorder was denied. Although further development of the record was found to be necessary it was specific as to evaluation and review of additional treatment records as to the spine, and assessment related to headaches and urological injury. No further development of the record as to the psychological injury was found to be necessary or ordered. None of these findings were disputed timely by the Applicant.

Use of the Appropriate Permanent Disability Rating Schedule and Denial of Admission of Exhibit 54

For the first time, in the Petition for Reconsideration, Applicant disputes the methodology of rating the permanent impairment and imputes that the proper method would have been to utilize the 1997 Permanent Disability Rating Schedule, applicable for injuries which were determined to be permanent and stationary prior to 2005. The Applicant sought to have an additional exhibit admitted as evidence on April 15, 2026, Exhibit 54. It was not admitted into evidence as it did not appear to have been included on a Pre-Trial Conference Statement or served prior to trial. It was a PR-2 Report completed by Dr. McCormack, who was not the Applicant's Primary Physician, and which included very little detail but noted the Applicant continued to be temporarily disabled at that time, and that there was expected residual disability. The four page exhibit includes three pages all with different dates 12/16/04, 12/20/04 and 12/22/04, as well as an additional page which is undated and appears to be a form letter utilized by Dr. Sobol. Since Dr. Sobol did not see the Applicant on December 16, it is unclear when it was written, but it includes a statement that although the Applicant's injury is not stabilized, the injured worker will be left with permanent impairment. It states that a comprehensive medical-legal report will be prepared when the injured worker's condition arrives at a permanent and stationary status. The four page exhibit was not properly identified or served prior to trial, and is of unknown date It is completely speculative and premature considering the Applicant was still early in the treatment process and would not reach a permanent and stationary status until years later. Based on all of the forgoing reasons, Exhibit 54 was not admitted into evidence. It had no relevance

to the issues which had been presented at trial because the use of an earlier permanent disability rating schedule was not raised. Although not asserted at the time of the request for admission, its purpose is now being asserted to support the Applicant's current argument that the rating was improper due to use of the incorrect schedule.

The Applicant disputes the use of the 2005 rating schedule, but the proposed rating submitted by the Applicant on April 15, 2026, uses the 2005 schedule, see Applicant's Proposed PD Rating EAMS ID 63783090. Title 8, California Code of Regulations §10152 states that "a disability is considered permanent when the employee has reached maximal medical improvement, meaning his or her condition is well stabilized, and unlikely to change substantially in the next year with or without medical treatment. No doctor had found the Applicant to have actual permanent disability, or found the Applicant's condition to be well stabilized in December of 2004. The undated letter of Dr. Sobol, which speculates that the Applicant will likely have impairment once determined in the future to be permanent and stationary, is not sufficient to form the basis for use of the rating schedule prior to 2005.

In a similar case, *SCIF v. WCAB (Echeverria) (2007)146 CA 4th 1311, 72 Cal Comp. Cases 33*, Applicant's counsel provided a form letter by fax to the primary treating doctor, clearly stating that changes in the law would change the way permanent impairment was calculated, and requesting the treating doctor sign the form indicating that "I believe permanent disability is within reasonable medical probability emanating from this injury." The Court of Appeal determined, citing *Escobedo v. Marshalls (2005) 70 Cal comp. Cases 604, 620*, that a medical opinion is not substantial evidence if it is based on an inadequate history, speculation or guess. When relying on the report of a physician, the Board can not isolate a fragmentary portion of the report and disregard other portions that contradict or nullify the portion relied upon. In order to be considered substantial evidence, the report must include the reasoning behind the doctor's opinions. The report in question did not provide any reasoning to support the anticipated conclusion, and the contemporaneous medical evidence from the same treating doctor provided no current prognosis of permanent impairment in detail, and included that the Applicant was at present temporarily totally disabled. The report was determined to be insufficient to support the use of the 1997 Permanent Disability Rating Schedule. Like the situation in Echeverria, the current medical statement from Dr. Sobol is not supported by any reasoning from Dr. Sobol to support his opinion, and similarly, the Applicant in this case is also Temporarily Totally Disabled at the time the statement from Dr. Sobol is purported to have been written. The request to have the 1997 Permanent Disability Schedule utilized was never raised prior to the current Petition for Reconsideration, and the Applicant's own rating of impairment does not utilize it. Additionally, the reports of Dr. Konstat provide a GAF score rather that the eight factors for the 1997 rating application and Applicant made no effort to obtain any modification to this assessment.

The correct schedule was utilized in the rating provided in the Findings and Award, based on the actual date at which the Applicant was determined to have reached a well stabilized condition, once thoughtful consideration of actual permanent impairment could be determined by the primary treating doctor and medical-legal evaluators. The rating of permanent impairment in the Findings and Award issued on July 23, 2026 is based on the reports of the doctors which were determined to have provided the most accurate and thorough evaluations of the Applicant and constituted substantial medical evidence, and was calculated using the appropriate permanent disability rating schedule for this injury. It is correct based on the Applicant's status at the time of the change in rating schedule in 2005 and it is accurate based on the medical reporting.

Admissibility and Use of the Reports of Dr. Nehamen

Applicant disputes the use of the reports of Dr. Nehamen in the Findings and Award, suggesting that the reports of Dr. Nehamen were improperly obtained, and do not constitute substantial medical evidence. In the Findings and Award, the reports of Dr. Nehamen were found to be substantial medical evidence, and obtained through appropriate means. As, at that time, the parties were able to obtain Qualified Medical Evaluators where there was a dispute and an inability to agree on an AME. The parties were able to agree on a Agreed Medical Evaluator as to the orthopedic injury to the spine, which was admitted by the Defendants, but were not able to agree on an evaluator for the disputed psychological injuries. At trial on September 27, 2017, Defendants objected to the Applicant's Exhibits 2 through 5, reports of Dr. Miller and Dr. Konstat, indicating that the reports were not valid because the Applicant did not obtain these reports in compliance with Labor Code §§4061/4062 or comply with Labor code §4628(e). Applicant responded that since this was a 2004 injury, there was no statutory requirement to go through the 4061/4062 process. Applicant indicated that per Labor Code §4628(e), it is for the WCJ to decide if the reports constitute substantial evidence, see Minutes of Hearing and Summary of Evidence, September 27, 2017, EAMS ID Number 65120627. This analysis applies equally to both Applicant's and Defendants QME reports.

The Applicant objected to the reports of Dr. Nehamen citing similar grounds and Defendant responded similarly, indicating that the after the claim was amended to include psychiatric injury in 2006, Defendants sent an appointment letter to the Applicant in July of 2006 for an evaluation with Dr. Nehamen in order to address the issue of compensability. Dr. Nehamen would go on to provide a total of eight reports which were admitted into evidence. The reports include the doctor's description of what was reviewed and evaluations conducted. They include his findings and opinions, with detailed explanations of how he arrived at his conclusions. The doctor did change his opinion after reviewing the video and social media post evidence provided by the Defendants, and the doctor provided a detailed explanation of the reasons for his change of opinion. The

video footage and social media post evidence provided a very different view of the Applicant than that described by the Applicant herself. Dr. Nehamen was not alone in his opinion that this evidence showed a different version of the Applicant's current state. Dr. Alban, reviewed the same evidence and also commented in this regard. Although it did not change Dr. Alban's opinion regarding the Applicant's orthopedic limitations, it did change Dr. Nehamen's view of the Applicant's psychological limitations. Dr. Nehamen's reporting was thorough and accurate, and more current and comprehensive than that of Dr. Konstat.

Dr. Konstat provided two reports, the first, Exhibit 5,dated December 1, 2014, is comprehensive and addresses the applicant's psychological injury related to her employment. There is no question that the Applicant sustained work related injury to her psyche as a result of the injury to her spine on September 27, 2004.

That was a finding in the Findings and Order issued on July 23, 2021. What is disputed by the Applicant is that there is permanent impairment associated with that injury. Dr. Nehamen found there was not, after reviewing the extensive video footage and social media posts, which is noted in his later reports. Dr. Konstat did not review the video or social medial posts, but did opine in her subsequent report of April 14, 2016, at page 10, Dr. Konstat notes that suffering with chronic pain is difficult to cope with day to day, but that Ms. Loves expectations and difficulty adjusting may be causing her to be functioning at a lower level beneath what she is otherwise capable of. Dr. Konstat notes that this is an area where psychotherapy can bring about change. "The perception of pain can be modified based on overall outlook and attitude as well as other factors." At page 26, Dr. Konstat notes that causation of Applicant's psychological injury is derivative of her underlying physical injury and in these types of cases, depression dysphoria and anxiety are in response to things like chronic pain and limitations. Dr. Konstat clearly determined the Applicant's depression and anxiety to be associated with the level of chronic pain and limitations of the physical injuries. Since the video evidence and social media posts show a significant difference in both the evidence of pain and limitations, as well as the Applicant's outlook and attitude, it would have been essential for Dr. Konstat to review and comment on this evidence, in order for her reporting to be substantial. As there were two QME's selected by the parties to evaluate the Applicant's psychological injuries, there was another doctor whose determinations could be utilized in the absence of Dr. Konstat's reporting.

The reports of Dr. Nehamen constituted substantial medical evidence as to the Applicant's psychological injury, and therefore negated a need to develop the record with additional reporting of Dr. Konstat. Both parties followed the regulations of the timeframe to obtain medical legal reporting regarding the psychological injury claim, and neither proceeded inappropriately. After discovery was completed to the extent determined to be needed by both of the parties, the case proceeded to trial and the reports which were determined to

> constitute the better evidence were chosen, based on comprehensiveness, accuracy and completeness. The reports of Dr. Nehamen were determined to be admissible and were chosen for these reasons, consistent with Labor Code §4628, as more persuasive and complete, as they included review of significant additional evidence.
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> (Report, at pp. 1-13.)

III.

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, supra*; *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 Hosp. v. Workers' Comp. Appeals Bd. (Bolton)* (1983) 34 Cal.3d 159, 164 [48 Cal.Comp.Cases 566], emphasis removed and citations omitted.) To constitute substantial evidence "… a medical opinion must be framed in terms of reasonable medical probability, it must not be speculative, it must be based on pertinent facts and on an adequate examination and history, and it must set forth reasoning in support of its conclusions." (*Escobedo v. Marshalls* (2005) 70 Cal.Comp.Cases 604, 621 (Appeals Board en banc).)

We agree that the WCJ may be correct that applicant could have exercised greater diligence in developing the record by obtaining supplemental reporting from Dr. Konstat. Nevertheless, Dr. Nehamen's most recent report, dated March 21, 2017 (defendant's Exhibit G), upon which the WCJ relied, is approximately 10 years old. Moreover, there is evidence in the record that applicant's condition may have materially changed since Dr. Nehamen last reported. Therefore, given the staleness of Dr. Nehamen's opinion, it cannot be said that substantial medical evidence supports the WCJ's decision. Where the medical evidence or opinion on an issue is incomplete, stale, and no longer germane, or is based on an inaccurate history, or speculation, it does not constitute substantial evidence. (*Place v. Workers' Comp. Appeals Bd*. (1970) 3 Cal.3d 372 [35 Cal.Comp.Cases 525]; *Escobedo v. Marshalls* (2005) 70 Cal.Comp.Cases 604, 621 (Appeals Board en banc).) 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].)

Where it is determined that the medical record requires further development, the preferred procedure is to allow supplementation by the physician who has already reported in the case. If the supplemental opinions of the previously reporting physician do not or cannot cure the need for development of the medical record, the selection of a different agreed medical evaluator (AME) by the parties should be considered. If none of the procedures outlined above is possible, the WCJ may resort to the appointment of a regular physician, as authorized by section 5701. (*McDuffie v Los Angeles Metropolitan Transit Authority* (2002) 67 Cal.Comp.Cases 138, 142–143 (Appeals Board en banc).) Therefore, we will grant reconsideration, defer the issues of permanent disability and attorney fees, and return this matter to the trial level for further proceedings as the WCJ determines necessary for development of the record.

As to the issues of admissibility and the Permanent Disability Rating Schedule, we agree with the WCJ for the reasons stated in the Report.

Accordingly, for the reasons stated herein, we will grant reconsideration, amend the July 23, 2026 Findings and Award to defer the issues of permanent disability and attorney fees and to order further development of the record. We will otherwise restate the WCJ's findings.

For the foregoing reasons,

IT IS ORDERED that applicant's Petition for Reconsideration is **GRANTED**.

IT IS FURTHER ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board, that the July 23, 2026 Findings and Award is **AFFIRMED**, **EXCEPT** as **AMENDED** below, and that this matter is **RETURNED** to the trial level for further proceedings and decision by the WCJ consistent with this opinion.

FINDINGS OF FACT

* * *

2. The issue of permanent disability is deferred.

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4. The issue of attorney fees is deferred.

5. The record requires further development.

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AWARD

AWARD IS MADE in favor of **HONEY LOVE** and against **STARBUCKS COFFEE COMPANY**, permissibly self-insured and administered by Sedgwick Claims Management Services, Inc., as follows:

1. Need for future medical treatment in accordance with Finding 3 above;

2. Jurisdiction over all liens is reserved at the trial level.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

/s/ CRAIG L. SNELLINGS, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

November 10, 2026

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

HONEY LOVE
LAW OFFICES OF MOORE & ASSOCIATES
HANNA BROPHY
DEFENSE ADVOCACY LAW FIRM

PAG/cm

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