WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

JACK UELIGITONE, *Applicant*

vs.

UNITED CONTINENTAL HOLDINGS CORPORATION, INC., dba UNITED AIRLINES, permissibly self-insured, administered by SEDGWICK; TRADER JOE'S COMPANY and ACE AMERICAN INSURANCE COMPANY, *Defendants*

Adjudication Number: ADJ18573103
Oakland District Office

OPINION AND ORDER GRANTING PETITION FOR RECONSIDERATION AND DECISION AFTER RECONSIDERATION

Defendant[1] seeks reconsideration of the Findings and Award (F&A) issued on May 15, 2026, wherein the workers' compensation administrative law judge (WCJ) found, in relevant part that applicant was totally temporarily disabled (TTD) for the period January 9, 2026, and ongoing, that defendant's termination and denial of TTD benefits was unreasonably delayed and refused; and that applicant's attorney reasonably spent 9.1 hours in pursuit of TTD on behalf of applicant at a rate of $450.00 per hour, which is deemed reasonable. The WCJ awarded applicant TTD indemnity for the period January 9, 2026 and ongoing, at the rate of $1061.62 per week, less credit for time worked and benefits paid including EDD, and awarded a 25% increase in benefits for the period January 9 to April 14, 2026 pursuant to Labor Code[2] section 5814 as an unreasonable delay. Applicant's counsel was also awarded costs and attorney fees of $4,095.00 pursuant to section 5813.

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[1] Trader Joe's Company is also a defendant in this case. Applicant elected against defendant United Airlines (4/14/26 Minutes of Hearing/ Summary of Evidence (MOH/SOE), p. 2.) and all further references to defendant will be to United Airlines.

[2] All further statutory references are to the Labor Code unless otherwise noted.

Defendant contends that it did not unreasonably delay or refuse to provide TTD to applicant and that the F&A ordering temporary disability for the period of January 9, 2026 and ongoing, the 25% penalty pursuant to section 5814, and the attorney's fees of $4,096.00 pursuant to section 5813 be set aside.

We have received an Answer from applicant. The WCJ prepared a Report and Recommendation on Petition for Reconsideration (Report), recommending that the Petition be denied.

We have considered the Petition for Reconsideration, the Answer, and the contents of the Report, and we have reviewed the record in this matter. For the reasons discussed below, we will grant the Petition for Reconsideration to rescind the finding of unreasonable delay and attorney fees and costs awarded pursuant to sections 5814 and 5813; issue an award for the 10% increase on the delayed payments pursuant to section 4650(d); and otherwise affirm the decision.

FACTS

Applicant, while employed during the period of September 8, 2022, through September 8, 2023 by United Continental Holdings, sustained injury arising out of and in the course of employment (AOE/COE) to the bilateral feet and hernia.

Three medical professionals evaluated applicant regarding his injuries: Agreed Medical Evaluator (AME) Larry Woodcox, M.D. for the injuries to applicant's feet; AME Richard Levy, M.D. in internal medicine; and Primary Treating Physician (PTP) Neil Kamdar, M.D. for pain.

In his Initial Comprehensive Agreed Medical Evaluation of January 15, 2025, AME Dr. Woodcox stated he had examined applicant on December 16, 2024, to evaluate applicant for alleged injuries sustained to both feet while working for defendant. (Jt. Ex. 101, AME Report of Dr. Woodcox, dated 1/15/25, p. 1.) Dr. Woodcox also reviewed applicant's medical records. (Jt. Ex. 101, pp. 6-20.) Dr. Woodcox concluded that there was more than likely medical probability that applicant sustained cumulative trauma to both feet while working for defendant and his injuries were therefore AOE/COE. (Jt. Ex. 101, p. 21.) Dr. Woodcox stated that applicant became permanent and stationary on December 16, 2024. (Jt. Ex. 101, p. 22.)

In his AME report of January 22, 2025, AME in internal medicine Dr. Levy discussed his evaluation of applicant regarding his hernia. (Jt. Ex. 103, AME Report of Richard Levy, dated

1/22/25, p. 1.) Dr. Levy reviewed applicant's medical records from June 9, 2023, to April 23, 2024, as well as applicant's two depositions on November 14, 2023, and July 25, 2024. (Jt. Ex. 103, pp. 6-9.) Dr. Levy concluded that it is within reasonable medical probability that applicant's hernia was due to his work at United Airlines more so than his work at Trader Joe's. (Jt. Ex. 103, p. 10.) Dr. Levy also concluded that applicant was permanent and stationary as of his report. (Jt. Ex. 103, p. 10.)

In his supplemental AME Report of June 13, 2025, Dr. Levy stated that he reviewed medical records through April 23, 2024, and then later mentioned reviewing some chart notes from June and July 2024. (Jt. Ex. 104, Supplemental Report of Dr. Levy, dated 6/13/25, pp. 1-2.) Dr. Levy stated that it was within reasonable medical probability that applicant's hernia was due to chronic lifting while working for defendant and that applicant was permanent and stationary. (Jt. Ex. 104, p. 4.) Dr. Levy stated that applicant could return to full-duty, full-time work from a compensable internal medicine basis. (Jt. Ex. 104, p. 5.)

PTP Dr. Kamdar, a pain specialist, saw applicant on October 6, 2025. (App. Ex. 5, PR-2 Report of Dr. Kamdar dated 10/6/25, p. 1.) Dr. Kamdar noted that applicant had developed significant pain symptoms in his feet from his work for defendant as well as an umbilical hernia. (App. Ex. 5, pp. 1-2, 6.) He requested authorization for a podiatry consultation to determine whether injection or surgical intervention was necessary for applicant's feet and requested an authorization for a surgical consultation for evaluation and management of the umbilical hernia. (App. Ex. 5, pp. 6-7.) Dr. Kamdar also gave applicant the following work restrictions: no lifting more than 10 pounds; no walking or standing more than 20 minutes at a time; no climbing ladders or stairs; no walking on uneven ground; and that applicant was allowed to alternate between sitting and standing as needed for pain. (App. Ex. 5, p. 7.) The requests for authorization were approved on October 14, 2025. (App. Ex. 7, Utilization Review Certification from Genex, dated 10/14/25, pp. 1-2.)

AME Dr. Woodcox provided a comprehensive agreed medical reevaluation report on January 8, 2026, in the specialties of podiatry and chiropractics, after seeing applicant in person that day and reviewing medical records. (Jt. Ex. 102, AME Report of Dr. Woodcox dated 1/8/26, pp. 1-2.) Dr. Woodcox again found that applicant's plantar fasciitis/fasciosis in both feet was a more than likely medical probability to be AOE/COE. (Jt. Ex. 102, p. 29.) Dr. Woodcox again concluded that applicant had reached permanent and stationary status on December 16, 2024. (Jt.

Ex. 102, p. 30.) He placed the following permanent work restrictions on applicant: avoid frequent heavy pushing, pulling, lifting, squatting, and climbing. (Jt. Ex. 102, p. 31.)

On January 23, 2026, PTP Dr. Kamdar placed the following work restrictions on applicant: no above or at shoulder work of the bilateral shoulders; no lifting more than 10 pounds; alternate sitting and standing as needed by pain; no repetitive bending around the lumber spine. (App. Ex. 4, Work Status Report by Dr, Kamdar dated 1/23/26, p. 1.) Dr. Kamdar noted that if those restrictions could not be accommodated, applicant would be TTD. (App. Ex. 1, p. 1.)

In the primary treating physician's progress report of February 9, 2026, Dr. Kamdar stated that applicant continued to suffer persistent pain symptoms in his feet and due to an umbilical hernia. (App. Ex. 2, PR2 Report of Dr. Kamdar dated 2/9/26, p. 5.) Applicant was approved for the podiatry consultation and was given a referral; he was approved for a general surgery consultation but the initial referral had rejected him so Dr. Kamdar was identifying an alternative provider. (App. Ex. 2, p. 5; see also App. Ex. 6, RFA by Dr. Kamdar dated 3/23/26, p. 1; App. Ex. 8, Utilization Review Certification from Genex dated 3/26/26, pp. 1-2.) Dr. Kamdar recommended the following work restrictions: no lifting more than 10 pounds; no walking of standing more than 20 minutes at a time; no climbing ladders or stairs; no walking on uneven ground; and that applicant be allowed to alternate between sitting and standing as needed for pain. (App. Ex. 2, pp. 5, 7.)

On March 3, 2026, defendant notified applicant through a Notice Regarding Temporary Disability Payment Termination that his temporary disability (TD) payments were being terminated based on Dr. Woodcox's report of January 8, 2026, as Dr. Woodcox cleared applicant to return to work with restrictions on January 8, 2026. Benefits were paid to applicant in the amount of $18,500.78 as TTD for the period from October 6, 2025, to February 4, 2026, at the rate of $1,061.52 per week. That total included an overpayment of $4,094.43 for the period from January 9 to February 4, 2026.

On March 16, 2026, Dr. Kamdar placed the following work restrictions on applicant: no above or at shoulder work of the bilateral shoulders; no lifting more than 10 pounds; alternate sitting and standing as needed by pain; no repetitive bending around the lumbar spine. (App. Ex. 3, Work Status Report of Dr. Kamdar, dated 3/16/26, p. 1.)

On March 26, 2026, applicant filed a Petition for Payment of Temporary Disability and Petition for Penalties, Costs and Sanctions Number 3, petitioning the WCJ for an order compelling defendant to resume payments of TD, ordering the immediate return of funds withdrawn from applicant's bank account; and imposing sanctions on defendant for its bad-faith and unlawful conduct in terminating TD payments.

The case proceeded to trial on April 14, 2026, on the issues of entitlement to TTD from January 9, 2026, and continuing; and penalties, costs, and sanctions. (MOH/SOE, p. 2.) The parties stipulated to the TTD rate of $1,061.62; that TD indemnity has been paid from October 6, 2025, through January 8, 2026; and according to the TD notice of March 3, 2026, payments may have been made from January 9 through February 4, 2026, and cashed, which defendants are claiming credit. (MOH/SOE, p. 2.)

Applicant testified at the trial that he sustained injury to his neck, back, head, feet, and hernia through his last day of work. (MOH/SOE, p. 4.) The injuries to the feet and hernia were accepted by defendants as of October 2025. (MOH/SOE, p. 4.) Prior to October 2025, his treatment was denied through the workers' compensation system and was instead treated through his private insurance at Kaiser. (MOH/SOE, pp. 4-5.) His treatment through Kaiser from fall 2023 to fall 2025 was recommended exercises but both his feet and his hernia had gotten worse since fall 2025. (MOH/SOE, p. 5.) He received TD indemnity payments from defendant in February and March 2026 but on March 25, 2026, he found out that one of the payments was reversed and the money was taken from his account without any notice. (MOH/SOE, p. 5.)

Applicant worked for both defendant United Airline and Trader Joe's between September 8, 2022, and September 8, 2023, which was his last date of work for both employers. (MOH/SOE, p. 5.) He had no employment since then and his current income was permanent disability payments from Sedgwick, the third-party administrator for defendant, for his neck in the amount of $290.00 per week. (MOH/SOE, p. 5.)

Applicant was first diagnosed with the hernia by Kaiser in fall 2023. (MOH/SOE, p. 5.) He had a consultation with Stanford and the doctor at Stanford recommended surgery. (MOH/SOE, p. 6.) He was waiting for the authorization for the surgery and he planned to proceed with it. (MOH/SOE, p. 6.) Kaiser diagnosed him with plantar fasciitis, heel spurs, and another diagnosis that he could not recall in the fall of 2023. (MOH/SOE, p. 6.) He started seeing Dr. Kamdar in October 2025, who recommended he see specialists for his plantar fasciitis and hernia. (MOH/SOE, p. 6.)

Applicant had seen Dr. Woodcox twice and gave him a full history of his feet but was not sure if he told him about his treatment at Kaiser. (MOH/SOE, p. 6.) He had not seen a foot specialist through workers' compensation as he had been waiting for a referral which came through recently. (MOH/SOE, p. 7.) He had used a cane and crutches before but was not using them that day. (MOH/SOE, p. 7.)

On April 17, 2026, applicant's attorney filed a Supplemental Petition for Attorney's Fees in Relation to Temporary Disability Dispute, requesting payment for a total of 9.1 hours spent pursuing TTD benefits for applicant.

On May 15, 2026, the WCJ issued the F&A finding: 1) applicant, while employed during the periods September 8, 2022 through September 8, 2023, by defendant, sustained injury arising AOE/COE to bilateral feet and hernia; 2) applicant's TTD rate is $1,061.62; 3) applicant was totally temporarily disabled for the period of January 9, 2026 and ongoing, payable at the rate of $1,061.62 per week, less credit for time worked and benefits paid, including EDD; 4) defendant's termination and denial of TTD was unreasonably delayed and refused; and 5) applicant attorney reasonably spent 9.1 hours in pursuit of TTD on behalf of applicant and a rate of $450.00 per hour is deemed reasonable. The WCJ made the following award: (a) Total temporarily disabled for the period of January 9, 2026 and ongoing payable at the rate of $1,061.62 per week, less credit for time worked and benefits paid, including EDD, and TTD from January 9, 2026 to April 14, 2026 shall be increased by 25% to applicant pursuant to section 5814 as an unreasonable delay and (b) applicant is awarded costs/attorney of $4,095.00 pursuant to section 5813 payable to applicant's attorney.

Defendant filed its Petition for Reconsideration of the F&A on June 2, 2026.

DISCUSSION

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.

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 June 16, 2026 and 60 days from the date of transmission is Saturday, August 15, 2026. The next business day that is 60 days from the date of transmission is Monday, August 17, 2026. (See Cal. Code Regs., tit. 8, § 10600(b).)[3] This decision is issued by or on Monday, August 17, 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 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 June 16, 2026, and the case was transmitted to the Appeals Board on June 16, 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 June 16, 2026.

[3] 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.

II.

We will affirm the WCJ's finding that applicant was totally temporarily disabled from January 9, 2026 going forward. Temporary disability indemnity is compensation for temporary impairment in earning ability caused by the industrial injury which is reasonably expected to be cured or materially improved with proper medical treatment or over time. (Lab. Code, §§ 4453 and 4653; see *Chavira v. Workers' Comp. Appeals Bd*. (1991) 235 Cal.App.3d 463, 473 [56 Cal.Comp.Cases 631].) We adopt and incorporate the WCJ's report on this issue as follows:

> THE FINDINGS OF FACT AND AWARD OF TTD FROM JANUARY 9, 2026 AND ONGOING WAS SUPPORTED BY THE RECORD AND NOT IN ERROR
>
> Petitioner contends in their Petition for Reconsideration that I erred in relying on PTP Dr. Neil Kamdar and that I erred in not relying on AME Dr. Richard Levy and AME Dr. Larry Woodcox. In support of their contention they cite *Power v. Workers' Comp. Appeals Bd*. (1986) 179 Cal.App.3d 775, wherein the Court of Appeals stated, "we begin by presuming that the agreed medical examiner has been chosen by the parties because of his expertise and neutrality. Therefore his opinion should ordinarily be followed unless there is good reason to find that opinion unpersuasive." While I acknowledge that this generally should be the case the record presented before me clearly showed that AME Dr. Richard Levy's opinion was no longer substantial medical evidence as it related to Applicant's permanent and stationary status as it relates to his hernia condition.
>
> Applicant began seeing Neil Kamdar, MD as his Primary Treating Physician October 6, 2025. In the Doctor's First Report of Occupational Injury or Illness, Dr. Kamdar noted that he was seeing the Applicant for an industrial injury to Applicant's bilateral feet and hernia. A recommendation for consultation with a Podiatrist and General Surgeon to treat for the umbilical hernia were submitted. At that time he deemed that the Applicant had work restrictions of, "No lifting of 10 pounds, no walking or standing longer than 20 minutes at a time, no climbing ladders or stairs, no walking on uneven ground, and allowance to alternate sitting and standing as needed for pain." (Applicant Exhibit 5). Dr. Kamdar further states that Applicant is totally temporarily disabled absent a provision of modified duty by the employer. PTP Dr. Kamdar would maintain these recommendations in his subsequent Work Status Reports of January 23, 2026, February 9, 2026 and March 16, 2026 (Applicant Exhibit 1, 3, & 4). In addition, the request for consultation with a Podiatrist and General Surgeon would be authorized by the Defendants October 14, 2025 and re-certified on March 26, 2026. (Applicant Exhibit 7 & 8).
>
> It is quite clear in reading the reports of PTP Dr. Kamdar, that Applicant's umbilical hernia is visibly present and that it clearly is affecting the Applicant. This is further supported by Applicant's own credible testimony wherein he states, "Since the fall of 2025 the hernia feels like it's expanded. He has discomfort eating and with other activities." There is no indication that the lifting restrictions provided by PTP Dr. Kamdar relate to anything but the hernia. Nor does it appear that Defendants made any effort to get clarity on this from PTP Dr. Kamdar.

> Defendants ask me to rely on the supplemental report of AME Dr. Richard Levy dated June 13, 2025, wherein he found the Applicant Permanent and Stationary and able to "return back to full duty, full time." (Joint Exhibit 104, p.5). But it appears based on the fact that this supplemental is based on AME Dr. Levy's evaluation of the Applicant on January 22, 2025 and only review of medical records through April 23, 2024, AME Dr. Levy was not aware of the current state of Applicant's hernia condition or the opinions of PTP Dr. Kamdar, which show a change of the Applicant's condition. As such, I do not find AME Dr. Levy's opinion at this time substantial medical evidence. …
>
> A medical opinion without a complete history of injury is mere hearsay. As such, it is not entitled to weight if other medical evidence includes a correct history. This is especially significant if injury is an issue, and the applicant's testimony regarding the occurrence of an injury and subsequent disability is corroborated by other evidence (*Rushing v. Workers' Comp. Appeals Bd.* (1971) 15 Cal.App.3d 517 [36 Cal.Comp.Cases 49][4]). A medical opinion based on an inaccurate presentation of the medical history of the patient is not sufficient to rebut another medical opinion with a correct history and setting forth the conclusion of medical probability (*Rosas v. Workers' Comp. Appeals Bd*. (1993) 16 Cal.App.4th 1692 [58 Cal. Comp. Cases 313].) Here, AME Dr. Levy had not evaluated Applicant since January 22, 2025 and had not reviewed any of the treatment reports since Applicant began treating with PTP Dr. Kamdar. He was not aware that Applicant would state, "Since the fall of 2025 the hernia feels like it's expanded. He has discomfort eating and with other activities." Based on this there is no basis for which I can find AME Dr. Levy's opinion to be substantial medical evidence. Further, the burden of proof that Applicant was still Permanent and Stationary as it relates to the hernia condition rested on Defendant and they failed to take any action to update AME Dr. Levy of the updated work restrictions imposed by PTP Dr. Kamdar on October 6, 2025 and instead at Expedited Hearing maintained that I should rely on the outdated opinions of AME Dr. Levy and that the work restrictions relayed by PTP Dr. Kamdar only related to the bilateral feet and as such AME Dr. Woodcox was aware and deemed Applicant Permanent and Stationary. To perform no "investigation" or seek confirmation from PTP Dr. Kamdar as what body parts and conditions the work restrictions relate to is a clear lack of due diligence and a failure to investigate on the part of Defendants.

(Report, pp. 3-5.) Therefore, applicant was totally temporarily disabled from January 9, 2026, and going forward.

[4] Citation corrected from original.

III.

Next we turn to the issue of whether defendants must pay a penalty for the late payment of TTD after January 9, 2026. Section 4650 requires that if "any indemnity payment is not made timely as required by this section, the amount of the late payment shall be increased 10 percent and shall be paid, without application, to the employee…" (Lab. Code, § 4650(d).) However,

> When payment of compensation has been unreasonably delayed or refused, either prior to or subsequent to the issuance of an award, the amount of the payment unreasonably delayed or refused shall be increased up to 25 percent or up to ten thousand dollars ($10,000), whichever is less. In any proceeding under this section, the appeals board shall use its discretion to accomplish a fair balance and substantial justice between the parties.

(Lab. Code, § 5814(a).)

As we stated in our en banc opinion in *Ramirez v. Drive Financial Services* (2008) 73 Cal.Comp.Cases 1324, 1331 (Appeals Bd. en banc), "[S]ection 5814(a) … provides that a penalty is payable only '[w]hen payment of compensation has been *unreasonably* delayed or refused.' (Emphasis added.) A delay or a refusal to pay is not 'unreasonable' if the defendant had 'genuine doubt from a medical or legal standpoint as to [its] liability.' (*Kerley v. Workers' Comp. Appeals Bd.* (1971) 4 Cal.3d 223, 230 [36 Cal.Comp.Cases 152].)"

While defendant did delay payment of TTD after January 9, 2026, the delay was not unreasonable as it was based on the conclusions by the AMEs in this case that applicant had become permanent and stationary. AME Dr. Woodcox stated that applicant became permanent and stationary on December 16, 2024, in his Initial Comprehensive Agreed Medical Evaluation of January 15, 2025, and confirmed that it was "more than likely" applicant reached maximum medical improvement MMI in his reevaluation report of January 8, 2026. (Jt. Ex. 101, p. 22; Jt. Ex. 102, p. 30.) AME Dr. Levy also concluded that applicant was permanent and stationary as of his report of January 22, 2025. (Jt. Ex. 103, p. 10.) An AME has been chosen by the parties because of their expertise and neutrality and therefore their opinion should ordinarily be followed unless there is good reason to find that opinion unpersuasive. (*Power v. Workers' Comp. Appeals Bd.* (1986) 179 Cal.App.3d 775, 782 [51 Cal.Comp.Cases 114].)

The delay in payment following January 9, 2026, was therefore not unreasonable and defendant is not required to pay the 25% penalty pursuant to section 5814(a). However, the amount of the late payment shall be increased 10 percent and shall be paid, without application, to applicant pursuant to section 4650(d).

IV.

Finally, we consider the costs and attorney's fees awarded to applicant and his attorney pursuant to section 5813 for expenses incurred as a result of bad-faith actions. Section 5813(a) provides

> The workers' compensation referee or appeals board may order a party, the party's attorney, or both, to pay any reasonable expenses, including attorney's fees and costs, incurred by another party as a result of bad-faith actions or tactics that are frivolous or solely intended to cause unnecessary delay.

(Lab. Code, § 5813(a).)

Defendant's cessation of TTD benefits was based upon the opinions of the two AMEs in this case when it stopped paying TTD after January 9, 2026. AME Dr. Woodcox stated that applicant became permanent and stationary on December 16, 2024, in his AME reports of January 15, 2025, and January 8, 2026. (Jt. Ex. 101, p. 22; Jt. Ex. 102, p. 30.) AME Dr. Levy also concluded that applicant was permanent and stationary as of his report of January 22, 2025. (Jt. Ex. 103, p. 10.) An AME has been chosen by the parties because of their expertise and neutrality and therefore their opinion should ordinarily be followed unless there is good reason to find that opinion unpersuasive. (*Power v. Workers' Comp. Appeals Bd.*, *supra*, 179 Cal.App.3d at p. 782.) While the WCJ's determination that applicant was entitled to TTD benefits commencing on January 9, 2026 based upon his treating physician as opposed to the AME medical reporting found to be stale on this issue, there is no indication that defendant acted in bad-faith or used tactics that are frivolous or solely intended to cause unnecessary delay. (Lab. Code, § 5813(a).) Therefore, we will rescind the award of payment in the amount of $4,095.00 that was incorrectly awarded pursuant to section 5813(a). Instead, applicant's attorney is entitled to a fee of 15% against the amount of the delayed TTD payment.

For the foregoing reasons,

IT IS ORDERED that applicant's Petition for Reconsideration of the Findings and Award of May 15, 2026, is **GRANTED**.

IT IS FURTHER ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the Findings of Fact and Award of the WCJ is **RESCINDED,** and the following is **SUBSTITUTED** as therefor:

FINDINGS OF FACT

1. APPLICANT, JACK UELIGITONE, while employed during the period September 8,2022 through September 8, 2023, by UNITED CONTINENTAL HOLDINGS, permissibly self-insured, sustained injury arising out of and in the course of employment to bilateral feet and hernia.

2. Applicant's TTD rate is $1,061.62 per week.

3. Applicant was totally temporarily disabled for the period of January 9, 2026 and ongoing, payable at the rate of $1,061.62 per week, less credit for time worked and benefits paid, including EDD.

AWARD

AWARD IS MADE in favor of JACK UELIGITONE and against UNITED CONTINENTAL HOLDINGS, permissibly self-insured as follows:

(a) Total temporarily disability for the period of January 9, 2026 and ongoing, payable at the rate of $1,061.62 per week, less credit for time worked and benefits paid, including EDD; and TTD from January 9, 2026 to April 14, 2026 shall be increased by 10% to applicant pursuant to Labor Code § 4650(d).

(b) Applicant's attorney is entitled to a fee of 15% against the delayed temporary disability payments.

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WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

/s/ JOSEPH V. CAPURRO, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

AUGUST 17, 2026

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

JACK UELIGITONE
BRITTANY HUYNH LAW FIRM
CHAVEZ BREAULT LAW FIRM

JMR/*pm*

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