WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

KYLE LARSON, *Applicant*

vs.

SOLVENTUM US, LLC; OLD REPUBLIC INSURANCE, administered by SEDGWICK CLAIMS MANAGEMENT, *Defendants*

Adjudication Numbers: ADJ20798821, ADJ20798822
Santa Ana District Office

OPINION AND ORDER DENYING PETITION FOR RECONSIDERATION

Applicant seeks reconsideration of the Findings and Order Regarding Validity of QME Panel Number 7821226 (F&O) issued by the workers' compensation administrative law judge (WCJ) on November 14, 2025, wherein the WCJ found, in pertinent part, that applicant, while employed by defendant, on February 28, 2025, as a compounding lead, sustained injury arising out of and in the course of employment (AOE/COE) to the head, facial fracture, nasal fracture, collar bone, ribs, and claims injury to the eyes, ears, neck, chest, shoulder, abdomen, back, right arm, right elbow, right wrist, legs, memory loss, and psyche (ADJ20798822); that applicant, while employed by defendant, during the period August 30, 2023 to August 30, 2024, as a compounding lead, claims injury AOE/COE to the neck, back, shoulder, wrists, legs, knees, heels, feet, dry skin, dry eyes, gastrointestinal pain, hearing loss, lungs, and psyche (ADJ20798821); and that Qualified Medical Evaluation (QME) Panel 7821226 is valid and overruled applicant's objection to that panel.

Applicant contends that QME Panel 7821226 was improperly obtained by defendant in ADJ20798822, and it is thus invalid, because defendant's panel request relied on a UR determination document related to a different claim, that included the wrong claim number and wrong date of injury; and because a UR denial letter cannot serve as a "denial" under Labor Code

section 4060[1]. Applicant contends further that the finding that defendant requested the QME panel for applicant's denied claim (ADJ20798821) is not supported by the evidence, and that the WCJ mischaracterized defendant's errors as typographical or clerical errors.

The WCJ issued a Report and Recommendation (Report) recommending that the Petition be denied. We have received an Answer from defendant.

We have considered the allegations of the Petition, the Answer, and the contents of the Report. Based on our review of the record, and for the reasons discussed below, we will deny the Petition for Reconsideration.

BACKGROUND

Applicant filed an Application for Adjudication of Claim on April 15, 2025, claiming a specific injury on February 28, 2025 to his head, nose, face, eye, and other body parts, due to falling off a 12-foot ladder while employed as a compounding lead by defendant. Applicant filed a second Application on April 15, 2025, claiming a cumulative trauma injury while working for defendant during the time period August 30, 2023 through August 30, 2024, to his neck, shoulders, wrist, leg, and other body parts, as the result of "repetitive work." (Case No. ADJ20798821.) Applicant's two claims were ordered consolidated for hearing by the WCJ on August 21, 2025. (8/21/25 MOH and Order of Consolidation, at p. 2.)[2]

Defendant accepted liability for applicant's specific injury (SI) claim in Case No. ADJ20798822. (Applicant's Exh. 9, at p. 1.) Defendant denied liability in applicant's cumulative trauma (CT) claim, Case No. ADJ20798821. (Applicant's Exh. 6, at p. 4.)

Both parties requested QME panels. Defendant requested a panel in orthopedic surgery, on June 2, 2025, listing the date of injury as February 28, 2025 and the claim number as 00000SINJ-84256. (Applicant's Exh. 2[3].) Defendant requested the Panel under the provisions of section 4060. (Applicant's Exh. 3, at p. 16.) As supporting documentation, defendant attached the May 16, 2024 Utilization Review (UR) deferral letter, for the date of injury February 28, 2025. (*Id.* at pp. 16-18.)

[1] All section references are to the Labor Code, unless otherwise indicated.

[2] All case document citations refer to documents filed in EAMS under case number ADJ20798821, unless otherwise indicated.

[3] We note that in Exhibit 2, page 2 of defendant's panel request is missing. The missing page is available, however, in Exhibit 3, p. 16.

On June 4, 2025, one day after the orthopedic panel issued, defendant objected to the April 8, 2025 report by applicant's Primary Treating Physician (PTP), Dr. Linnemann. (Applicant's Exh. 9.)

Applicant requested a panel in pain medicine on June 9, 2025, listing the date of injury as August 30, 2024, and the claim number as 00000SINJ-84456. (Applicant's Exh. 1.) On the same date, applicant filed a letter objecting to the QME panel obtained by defendant and requesting that defendant produce all documents associated with its panel request. (Applicant's Exh. 7.) Applicant advised defendant that defendant's panel request "failed to comply with CCR 30" due to failure to serve applicant with the required documents. (*Ibid*.)

Defendant filed a Declaration of Readiness to Proceed to an Expedited Hearing (DOR) on July 17, 2025, noting that each party had requested a QME panel and requesting a hearing to "determine which panel is appropriate for this case so the parties can set the exam with the correct PQME." (7/16/25 DOR.)

On July 18, 2025, applicant filed a Petition to Set Aside QME Panel List #7821226 (Petition to Set Aside), requesting that the WCJ set aside the QME panel obtained by defendant (panel 7821226) and proceed with panel 7823752, obtained by applicant. (Applicant's Exh. 3, Petition to Set Aside, at p. 5.) Applicant explained that defendant issued a Notice of Denial of Workers' Compensation Benefits for the CT claim on May 13, 2025, thus starting the 10-day time period after which a QME panel may be requested. (*Id*. at p. 4, item 3; Applicant's Exh. 11.) Applicant argued that the June 3, 2025 QME panel in orthopedic surgery, requested by defendant, was invalid because it requested a panel in the accepted SI case, rather than in the CT case that was in dispute; it erroneously requested the panel pursuant to section 4060, which only applies to compensability disputes, despite the SI claim being accepted; and it relied on a supporting document that was inapplicable because the document did not constitute a "request for medical evaluation pursuant to Section 4060" as required by section 4062.2(b). (*Id*. at p. 4, item 4.) Applicant noted that after obtaining the QME panel in pain medicine, applicant selected Dr. Hamilton Chen as the panel QME. (*Id*. at pp. 4-5, items 5 and 7.) Applicant's primary treating physician (PTP) since April 9, 2025 is Dr. Nimish Shah, a specialist in pain medicine. (*Id*. at p. 5, item 8.)

Defendant filed a Response to Petition to Set Aside PQME Panel List 7821226, on July 30, 2025, in which it argued that the QME panel it obtained in orthopedic surgery should be upheld, and the QME panel obtained by applicant, which was requested later in time, should be invalidated.

(7/30/25 Response, at p. 4.) Defendant argued that a report pursuant to section 4060 to determine causation was required. (*Id*. at p. 3.) It conceded that the UR deferral letter that it relied upon in its QME panel request refers to the date of injury for the SI claim, rather than that of the CT claim, but argued that other language in the UR deferral referred to the CT claim, putting applicant on notice that it was the CT claim that was denied. (*Ibid*.)

The matter was heard for an expedited hearing on August 21, 2025. (8/21/25 MOH and Order of Consolidation.) The parties stipulated, in the SI case, that on February 28, 2025 applicant sustained injury AOE/COE to his head, facial fracture, nasal fracture, collar bone, and ribs, and that he claims to have sustained injury AOE/COE to his eyes, ears, neck, chest, shoulder, abdomen, back, right arm, right elbow, right wrist, legs, memory loss, psyche. (*Id.* at p. 2.) In the CT case, the parties stipulated that applicant claims to have sustained injury AOE/COE during the time period August 30, 2023 to August 30, 2024 to his neck, back, shoulder, wrists, legs, knees, heels, feet, dry skin, dry eyes, gastrointestinal pain, hearing loss, lungs, and psyche. (*Id.* at p. 3.) In both cases, the WCJ indicated that the only issue for trial was the validity of the QME panel in orthopedic surgery, requested by defendant. (*Id.* at pp. 2 and 3.) Documentary evidence was admitted and parties submitted the matter on the evidence, without testimony. (*Id.* at pp. 3-5.) The WCJ noted in the minutes:

> LET THE MINUTES FURTHER REFLECT that the Court had a brief discussion with the parties wherein defense has requested that the Court conform the evidence to the pleadings. Defense Exhibit A shows the correct claim number and date of injury for the CT claim. The UR Deferral is for the CT claim. Applicant's attorney objected to this request due to the fact that defense used the incorrect claim number and date of injury on the Panel Request Form.

(*Id.* at p. 5.)

In the November 14, 2025 F&O, the WCJ found that the panel issued in orthopedic surgery (Panel number 7821226) is valid in the CT case (ADJ20798821) and ordered that applicant's objection to that panel is overruled. (F&O, at p. 2.) The WCJ explained his reasoning in the Opinion on Decision (OOD), writing that defendant's QME panel request was first in time; that the support letter submitted by defendant lists the SI rather than the CT date of injury but "the contents of the delay letter clearly and exclusively refer to the denied cumulative trauma claim" and leave no doubt that the CT injury was denied; and that the claim numbers for the two dates of injury are "virtually identical except for one digit being different" which "lends credence to the

likely scenario that Defendant made a typographical or clerical mistake in the panel QME request"; and thus, the May 13, 2025 letter "was sufficient to alert the parties to the dispute over compensability of the injury." (Opinion, at pp. 7-9.) The WCJ explained, further that defendant's May 16, 2025 letter "meets the requirements for requesting a panel under Labor Code § 4060." (*Id.* at p. 9.)

Applicant's Petition followed.

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 on December 8, 2025, and 60 days from the date of transmission is February 6, 2026. This decision is issued by or on February 6, 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 December 8, 2025, and the case was transmitted to the Appeals Board on December 8, 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 December 8, 2025.

II.

A petition for reconsideration may properly be taken only from a "final" order, decision, or award. (Lab. Code, §§ 5900(a), 5902, 5903.) 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. (*Maranian v. Workers' Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1070, 1075 [65 Cal.Comp.Cases 650].) Interlocutory procedural or evidentiary decisions, entered in the midst of the workers' compensation proceedings, are not considered "final" orders. (*Id*. at p. 1075 ["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"].) Such interlocutory decisions include, but are not limited to, pre-trial orders regarding evidence, discovery, trial setting, venue, or similar issues.

A decision issued by the Appeals Board 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.

Here, the WCJ's decision includes findings of employment, injury AOE/COE, and insurance coverage. These are final orders subject to reconsideration and not removal. (*Maranian v. Workers' Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1075 [65 Cal.Comp.Cases 650].)

Although the decision contains findings that are final, petitioner is only challenging an interlocutory finding/order regarding the validity of a QME panel. Therefore, we will apply the removal standard to our review. (See *Capital Builders Hardware v. Workers' Comp. Appeals Bd.* (*Gaona*) (2016) 5 Cal.App.5th 658, 662 [81 Cal.Comp.Cases 1122].)

Removal is an extraordinary remedy rarely exercised by the Appeals Board. (*Cortez v. Workers' Comp. Appeals Bd.* (2006) 136 Cal.App.4th 596, 599, fn. 5 [71 Cal.Comp.Cases 155]; *Kleemann v. Workers' Comp. Appeals Bd.* (2005) 127 Cal.App.4th 274, 280, fn. 2 [70 Cal.Comp.Cases 133].) The Appeals Board will grant removal only if the petitioner shows that substantial prejudice or irreparable harm will result if removal is not granted. (Cal. Code Regs., tit. 8, § 10955(a); see also *Cortez, supra*; *Kleemann, supra*.) Also, the petitioner must demonstrate that reconsideration will not be an adequate remedy if a final decision adverse to the petitioner ultimately issues. (Cal. Code Regs., tit. 8, § 10955(a).)

III.

Turning now to the Petition, we address applicant's contention that the QME panel requested by defendant is invalid because a UR deferral letter regarding treatment authorization in applicant's SI case cannot stand in for a claim denial letter addressing compensability, as required under section 4060. (Petition, at pp. 4-5.) Applicant argued that "the WCJ erred because the panel request did not arise from a compensability dispute and therefore could not legally trigger a §4060 evaluation." (*Id*. at p. 5.)

The process by which a party may seek the issuance of a panel of QMEs is addressed in AD Rule 30. (Cal. Code Regs., tit. 8, § 30.) The Rule requires, in relevant part, that represented parties submit a request for a panel of QMEs electronically to the DWC Medical Unit, and that they identify the following elements:

1. Panel Request Information Section
    i. Date of Injury
    ii. Claim Number
    iii. Requesting Party
    iv. Reason QME Panel is being Requested

v. Dispute type

vi. Name of primary treating physician

vii. Date of report being objected to

viii. Date of objection communication

ix. Specialty of treating physician

x. QME Specialty Requested

xi. Opposing Party's QME Specialty Preferred (if known)

(Cal. Code Regs., tit. 8, § 30(b)(1)(A)(1).)

Section 4060 provides, in relevant part:

(a) This section shall apply to disputes over the compensability of any injury. This section shall not apply where injury to any part or parts of the body is accepted as compensable by the employer.

...

(c) If a medical evaluation is required to determine compensability at any time after the filing of the claim form, and the employee is represented by an attorney, a medical evaluation to determine compensability shall be obtained only by the procedure provided in Section 4062.2.

(Lab. Code, § 4060(a) and (c).)

Section 4062, subdivision (a), provides in relevant part:

(a) If either the employee or employer objects to a medical determination made by the treating physician concerning any medical issues not covered by Section 4060 or 4061 and not subject to Section 4610, the objecting party shall notify the other party in writing of the objection within 20 days of receipt of the report if the employee is represented by an attorney or within 30 days of receipt of the report if the employee is not represented by an attorney. These time limits may be extended for good cause or by mutual agreement. If the employee is represented by an attorney, a medical evaluation to determine the disputed medical issue shall be obtained as provided in Section 4062.2, and no other medical evaluation shall be obtained…

(Lab. Code, § 4062(a).)

To obtain a QME panel in a represented case, section 4062.2 provides, in relevant part:

(a) Whenever a comprehensive medical evaluation is required to resolve any dispute arising out of an injury or a claimed injury occurring on or after January 1, 2005, and the employee is represented by an attorney, the evaluation shall be obtained only as provided in this section.

> (b) No earlier than the first working day that is at least 10 days after the date of mailing of a request for a medical evaluation pursuant to Section 4060 or the first working day that is at least 10 days after the date of mailing of an objection pursuant to Sections 4061 or 4062, either party may request the assignment of a three-member panel of qualified medical evaluators to conduct a comprehensive medical evaluation. The party submitting the request shall designate the specialty of the medical evaluator, the specialty of the medical evaluator requested by the other party if it has been made known to the party submitting the request, and the specialty of the treating physician. The party submitting the request form shall serve a copy of the request form on the other party.

(Lab. Code, § 4062.2(a) - (b).)

Here, defendant's QME panel request failed to comply with the statutory requirements described above. Defendant conceded that it requested the orthopedic QME panel pursuant to section 4060. (7/30/25 Response to Petition to Set Aside, at p. 2; 12/11/25 Answer to Petition for Reconsideration, at p. 2.) It argued that "Since we are dealing with two different injuries, one of which is denied, we need to obtain a Labor Code Section 4060 report to determine causation." (7/30/25 Response to Petition to Set Aside, at p. 3.) It further argued that it could properly base its QME panel request on the May 16, 2025 UR deferral letter, asserting that the letter "clearly applies to the cumulative trauma claim." (*Ibid*.; Defendant's Exh. A.)

The WCJ found that the QME panel request was valid, based on the WCJ's conclusions that the supporting letter submitted with the panel request indicated that it was issued in regard to the denied CT claim, and that the incorrect claim number was a clerical or typographical error. (Opinion on Decision, at pp. 7-10.) As discussed below, we agree.

We first consider the issue of the claim number. Our prior panel decisions[4] have discussed the circumstances where such errors occur. In *Sidahmed v. Alameda County Counsel, PSI* (2024 Cal. Wrk. Comp. P.D. LEXIS 103*) the facts were similar to the present case: applicant in that matter contended that defendant's QME panel was void because it listed an incorrect claim number. (*Id*. at *5.) We explained that "the issuance of a panel requires a *claim* number as a means

[4] Unlike en banc decisions, panel decisions are not binding precedent on other Appeals Board panels and WCJs. (See *Gee v. Workers' Comp. Appeals Bd.* (2002) 96 Cal. App. 4th 1418, 1425 fn. 6 [67 Cal.Comp.Cases 236].) However, panel decisions are citable authority and we consider these decisions to the extent that we find their reasoning persuasive, particularly on issues of contemporaneous administrative construction of statutory language. (See *Guitron v. Santa Fe Extruders* (2011) 76 Cal.Comp.Cases 228, fn. 7 (Appeals Board En Banc); *Griffith v. Workers' Comp. Appeals Bd.* (1989) 209 Cal.App.3d 1260, 1264, fn. 2, [54 Cal.Comp.Cases 145].)

for the parties and the Medical Unit to identify a claim and any prior panels that may have issued with respect to that claim." (*Id*. at pp. *12-13.) We concluded that:

> [T]he proper identification of a claim number provides notice to the parties of the injury for which a party is seeking the issuance of a panel, especially in cases such as this, where the injured worker may have previous or currently pending claims of industrial injury. Thus, a party requesting the issuance of a panel of QMEs must provide accurate information to comply with AD Rule 30, and also because the parties' ability to correlate a request for the issuance of a panel with the correct claimed injury is essential to due process.

(*Id*. at p. *13.)

More recently, we have further addressed the need for accuracy in listing the correct claim number in a QME panel request in *Silveira v. FedEx Ground Package Sys., Inc.* (2025 Cal. Wrk. Comp. P.D. LEXIS 243* [2025 LX 334142].) In *Silveira*, we determined that defendant's request for a QME panel was invalid despite listing a claim number that was incorrect by only one digit. (*Id*. at *1.) In seeking to balance the informal nature of workers' compensation proceedings with the right to substantive and procedural due process, we wrote:

> We acknowledge that generally, both the Labor Code and our rules "[disfavor] application of formalistic rules of procedure that would defeat an employee's entitlement to [] benefits." (*Martino v. Workers' Comp. Appeals Bd.* (2002) 103 Cal.App.4th 485, 490 [126 Cal.Rptr.2d 812, 67 Cal.Comp.Cases 1273].) Indeed, WCAB Rule 10517 (Cal. Code Regs., tit. 8, §10517) specifies that pleadings are deemed amended to conform to the stipulations agreed to by the parties on the record or may be amended by the Appeals Board to conform to proof. This rule represents the application of California's public policy in favor of adjudication of claims on their merits, rather than on the technical sufficiency of the pleadings.
>
> However, our analysis must be grounded in principles of due process. "Due process requires notice and a meaningful opportunity to present evidence in regards to the issues." (*Rea v. Workers' Comp. Appeals Bd.* (2005) 127 Cal.App.4th 625, 643 [25 Cal. Rptr. 3d 828, 70 Cal.Comp.Cases 312]; see also *Fortich v. Workers' Comp. Appeals Bd.* (1991) 233 Cal.App.3d 1449, 1452–1454 [285 Cal.Rptr. 222, 56 Cal.Comp.Cases 537].) Here, we are persuaded that due process requires that the initial mechanism by which a party obtains a QME evaluation must be accurate, transparent, and accessible to all parties. In contrast to the other identifiers listed in AD Rule 30, the claim number is the sole basis used by the Medical Unit to track whether a panel previously issued. Thus, the claim number underlying a panel request must be correctly identified to provide all parties with the opportunity to evaluate the validity of the request and to be heard on issues arising out of the request, as necessary.

> In sum, we believe that the better course is to require that parties strictly comply with the requirement in AD Rule 30 to provide a complete and correct claim number in making a request, rather than weighing and adjudging the individual facts and equity surrounding each incorrectly listed claim number in a QME panel dispute. In so doing, we seek to avoid the dangers of inconsistent outcomes, provide clarity to parties with respect to applicable minimum standards in requesting a QME panel, and allow parties to more easily predict whether a particular panel is valid without the need to seek intervention at the WCAB.

(*Silveira, supra*, at pp. *12-13.)

Our analyses in both *Sidahmed, supra*, and *Silveira, supra*, emphasize that a correct claim number is the primary method of identifying a claim in connection with a QME panel request, and that the correct identification of the pending claim is necessary to properly apprise all interested parties of the status of the QME dispute resolution process. (Lab. Code, §§ 4060, 4061, 4062.2; Cal. Code Regs., tit. 8, § 30.) The requirement that panel requests contain accurate claims information reduces litigation and allows parties to more easily predict whether a particular panel is valid without the need to seek the intervention of the WCAB.

Here, the issue is that the panel request accurately identified a claim number, even though it was for the specific date of injury, and not the cumulative injury. The claim forms for the specific injury and the cumulative injury were submitted before any request for a panel QME. Pursuant to *Navarro v. City of Montebello* (2014) 79 Cal.Comp.Cases 418, sections 4062.3(j) and 4064(a) taken together state that a medical evaluation shall address "all medical issues arising from all injuries reported on one or more claim forms." (*Navarro v. City of Montebello* (2014) 79 Cal.Comp.Cases 418, 424 (Appeals Board en banc).) In keeping with the requirements set forth in sections 4062.3(j) and 4064(a), *Navarro* clarifies that at the time of an evaluation, the evaluator shall consider all issues arising out of any claims reported before the evaluation, and if several subsequent claims of injury are filed before the evaluation takes place, the evaluator shall also consider those claims. (*Id.* at p. 425.)

Under *Navarro*, the date the claim form is filed is the operative act in determining the right to request a QME panel. If a claim form for an additional injury is filed before the evaluation with the panel QME, then that QME shall remain as the QME for all injuries with submitted claim forms. Here both claim forms pre-date the panel requests, so whether defendant identified the claim number for the specific injury, or the claim number for the cumulative injury, on their request, the same evaluator would be the QME for both claims. That is, the QME will opine on

both claimed injuries, including the issues of whether there are one or two injuries and the dates of injury. As discussed above in *Silveira, supra*, our WCAB Rule 10517 allows pleadings to be amended according to proof. (Cal. Code Regs., tit. 8, § 10517.) While it is incumbent on all parties to provide accurate information, here, we believe that defendant's error in listing one of the claim numbers rather than the other is harmless.

IV.

Finally, we note that applicant's Petition for Reconsideration contains numerous documents attached, in violation of WCAB Rule 10945(c). (Cal. Code Regs., tit. 8, § 10945(c).) Rule 10945(c), subdivision (1), prohibits attaching documents that have been received in evidence or made part of the adjudication file, while subdivision (2) prohibits the attachment of documents that are not part of the adjudication file, unless a ground for the petition for reconsideration is newly discovered evidence. (Cal. Code Regs., tit. 8, § 10945(c)(1) and (2).) Here, documents were attached to the Petition in violation of both subdivisions. These documents have been removed and discarded. Applicant's counsel is reminded to follow the WCAB's Rules in future matters.

V.

Accordingly, we deny the Petition for Reconsideration.

For the foregoing reasons,

IT IS ORDERED that applicant's Petition for Reconsideration of the decision of November 14, 2025 is **DENIED.**

WORKERS' COMPENSATION APPEALS BOARD

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER

I CONCUR,

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

/s/ JOSEPH V. CAPURRO, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

FEBRUARY 6, 2026

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

KYLE LARSON
LAW OFFICES OF NORMAN HOMEN
ALBERT AND MACKENZIE

MB/*ara*

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