

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

RICARDO BAEZ, *Applicant*

vs.

AMAZON; AMERICAN ZURICH INSURANCE COMPANY, *Defendants*

**Adjudication Number: ADJ14142513
Van Nuys District Office**

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

Defendant seeks reconsideration of a workers' compensation administrative law judge's (WCJ) Findings, Award and Order of February 23, 2026, wherein it was found that while employed on August 21, 2020 as a warehouse associate, applicant sustained admitted industrial injury to the lumbar spine and non-stipulated injury to the cervical spine, thoracic spine, and hips, causing temporary disability, permanent disability of 38% after apportionment and the need for further medical treatment. The decision contains two typographical errors. Finding Number 8 states that "applicant is entitled to an award of permanent partial disability of thirty-eight percent (38%), equivalent to 187 weeks of indemnity payable at the rate of \$219.55 per week, in the total sum of \$41,050.85." However, 187 weeks multiplied by \$219.55 is equal to \$41,055.85. Additionally, Finding No. 5 states that applicant was "temporarily permanently disabled," which is not a concept that appears in California workers' compensation and within the context of the finding, it appears that the word "permanently" was included in error.

Defendant contends that the WCJ erred in finding industrial injury to the cervical spine, thoracic spine, and hips and in finding associated permanent disability related to those body parts. We have received an Answer from applicant and the WCJ has filed a Report and Recommendation on Petition for Reconsideration (Report).

For the reasons stated by the WCJ in the Report, which we quote below, and for the additional reasons stated below, we will affirm the substance of the WCJ's decision. However, we

will grant reconsideration and amend the decision to correct the typographical errors identified above.

Preliminarily, we note that former Labor Code section 5909 provided that a petition for reconsideration was deemed denied unless the Appeals Board acted on the petition within 60 days from the date of filing. (Lab. Code, § 5909.) Effective July 2, 2024, Labor Code section 5909 was amended to state in relevant part that:

(a) A petition for reconsideration is deemed to have been denied by the appeals board unless it is acted upon within 60 days from the date a trial judge transmits a case to the appeals board.

(b)

(1) When a trial judge transmits a case to the appeals board, the trial judge shall provide notice to the parties of the case and the appeals board.

(2) For purposes of paragraph (1), service of the accompanying report, pursuant to subdivision (b) of Section 5900, shall constitute providing notice.

Under Labor Code section 5909(a), the Appeals Board must act on a petition for reconsideration within 60 days of transmission of the case to the Appeals Board. Transmission is reflected in Events in the Electronic Adjudication Management System (EAMS). Specifically, in Case Events, under Event Description is the phrase “Sent to Recon” and under Additional Information is the phrase “The case is sent to the Recon board.”

Here, according to Events, the case was transmitted to the Appeals Board on March 23, 2026 and 60 days from the date of transmission is May 22, 2026. This decision is issued by or on May 22, 2026, so we have timely acted on the petition as required by Labor Code section 5909(a).

Labor Code section 5909(b)(1) requires that the parties and the Appeals Board be provided with notice of transmission of the case. Transmission of the case to the Appeals Board in EAMS provides notice to the Appeals Board. Thus, the requirement in subdivision (1) ensures that the parties are notified of the accurate date for the commencement of the 60-day period for the Appeals Board to act on a petition. Labor Code section 5909(b)(2) provides that service of the Report and Recommendation shall be notice of transmission.

Here, according to the proof of service for the Report and Recommendation by the workers’ compensation administrative law judge, the Report was served on March 23, 2026, and the case was transmitted to the Appeals Board on March 23, 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 Labor Code section 5909(b)(1) because service of the Report in compliance with Labor Code section 5909(b)(2) provided them with actual notice as to the commencement of the 60-day period on March 23, 2026.

Turning to the merits, we will affirm the WCJ's decision for the reasons stated in the Report. Although applicant's primary treating physician orthopedist Khalid B. Ahmed initially recorded a history of the injurious event that was slightly different than the one that applicant testified at trial, he reviewed several reports from the QME which included the correct history, but Dr. Ahmed did not alter his conclusions. It appears that the difference between moving awkwardly to avoid hitting a colleague and actually hitting the colleague was not a material difference. With regard to the issues of industrial injury to the hips, thoracic spine and cervical spine, we note that the QME did state that applicant's hips were exacerbated by the industrial incident but that any permanent disability was due to pre-existing conditions. (January 26, 2022 report at p. 2.) Dr. Ahmed acknowledged the pre-existing conditions but ascribed some causation to the industrial incident. (June 17, 2022 report at p. 7.) With regard to the cervical spine, the QME based on his opinions on the fact that applicant had prior cervical pain 15 years before the incident and that he did not immediately complain of cervical pain at the time of the incident. (June 7, 2023 report at p. 3.) With regard to the thoracic spine, the QME did not rule out a possibility of industrial injury but said that there were no immediate complaints of pain, and that it was unclear if his thoracic condition was any worse than his pre-existing condition. (March 20, 2025 report at pp. 5-7.) In contrast, Dr. Ahmed found objective evidence of injury and opined that the findings were consistent with the mechanism of injury. (December 20, 2024 report at pp. 3-4.) While applicant had pre-existing conditions in all of these body parts, that does not negate industrial contribution to permanent impairment by the industrial injury.

With regard to the finding of industrial injury in this case, defendant essentially is arguing that the WCJ should have followed the opinion on panel qualified medical evaluator orthopedist David L. Wood, M.D. rather than the opinions of the treating physician

The relevant and considered opinion of one physician, though inconsistent with other medical opinions, may constitute substantial evidence. (*Le Vesque v. Workmen's Comp. Appeals Bd.* (1970) 1 Cal.3d 627, 639 [35 Cal.Comp.Cases 16].) The WCJ is empowered to choose among conflicting medical reports and rely on those deemed most persuasive. (*Jones v. Workmen's*

Comp. Appeals Bd. (1968) 68 Cal.2d 476, 479 [33 Cal.Comp.Cases 221].) There is nothing in the record compelling enough for us to reject the WCJ's determination that the opinions of Dr. Ahmed were more persuasive than the opinions of Dr. Wood. We therefore affirm the WCJ's findings.

We otherwise affirm the substance of the WCJ's decision for the reasons stated in the Report, which we quote here:

INTRODUCTION:

On March 13, 2026, Defendant filed a timely, verified Petition for Reconsideration. The Defendant contends the following:

- a) The WCJ relied on medical evidence that was not substantial; and,
- b) The WCJ failed to explain why he rejected the opinions of orthopedic panel qualified medical examiner David L. Wood, M.D.

STATEMENT OF RELEVANT FACTS:

This matter was submitted for decision on July 15, 2024. On September 23, 2024, the undersigned WCJ found that the doctors reported injury to the Applicant's thoracic spine, but neither doctor discussed the causation of the injury. The submission was vacated to develop the record and the matter was set for further proceedings. On February 2, 2026, two new reports were admitted into evidence, one from primary treating physician Khalid Ahmed, M.D. and the other from panel qualified medical examiner David L. Wood, M.D. and the matter was submitted. On February 23, 2026, the undersigned WCJ issued an award based on the findings of primary treating physician Khalid Ahmed, M.D. It is from the reliance on the report by Khalid Ahmed, M.D. that defendant seeks relief.

DISCUSSION

THE REPORTS BY KHALID AHMED, M.D. ARE SUBSTANTIAL MEDICAL EVIDENCE

Any defect contained in the Opinion on Decision under Labor Code section 5313 is cured by the herein WCJ's Report and Recommendation on Reconsideration (*Smales v. Workers' Comp. Appeals Bd.* (1980) 45 Cal. Comp. Cases 1026 (writ denied)). The undersigned WCJ may not have properly articulated the reasons for using Khalid Ahmed, M.D.'s reports over the panel qualified medical examiner's report. To cure the defect, the undersigned WCJ offers the following: To be considered substantial evidence, a medical opinion "must be predicated on reasonable medical probability." (*E.L. Yeager Construction v. Workers' Comp. Appeals Bd. (Gatten)* (2006) 145 Cal.App.4th 922, 928 [71

Cal.Comp.Cases 1687]; *McAllister v. Workmen's Comp. Appeals Bd.* (1968) 69 Cal.2d 408, 413, 416–17, 419 [33 Cal.Comp.Cases 660].) A physician's report must also 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. (*Gatten, supra*, 145 Cal.App.4th at 928 [71 Cal.Comp.Cases 1687]; *Escobedo v. Marshalls* (2005) 70 Cal.Comp.Cases 604, 612 (Appeals Board en banc), 70 Cal.Comp.Cases 1506 (writ den.)) We observe, moreover, it is well-established that the relevant and considered opinion of one physician may constitute substantial evidence, even if inconsistent with other medical opinions in the record. (*Place v. Workmen's Comp. Appeals Bd.* (1970) 3 Cal.3d 372, 378-379 [35 Cal.Comp.Cases 525].)

In this case, the defendant contends that the reporting of Khalid Ahmed, M.D. is not substantial medical evidence because it has an inaccurate history of the injury. The petitioner points out that Applicant testified that “he was not injured by a box falling on him or bumping into him. Applicant was injured because of the way he twisted his body, nobody bumped into him.” (Minutes of Hearing and Summary of Evidence dated July 15, 2024 at 6:12-15.) In Dr. Ahmed's initial report dated April 16, 2021, the doctor reports that the Applicant stated that a colleague was lifting a box and hit the applicant. (Exhibit 11 at page 2.) In Dr. Ahmed's disclosure statement he says “The patient's medical history was obtained using an initial preliminary outline.” Dr. Ahmed then reviews the outline as a guide in obtaining the detailed medical history. (Exhibit 11 at page 13.) The court finds this method may lead to small discrepancies. Three months later, on July 13, 2021, the Applicant was seen by Dr. Wood. The testimony recorded by Dr. Wood matched Applicant's testimony. This leads the undersigned WCJ to conclude the discrepancy in Dr. Ahmed's report was a transcription error. Furthermore, the permanent impairments relied upon were derived from objective findings. For the above reasons, the undersigned WCJ finds the final reports of Dr. Ahmed are substantial medical evidence.

THE MEDICAL REPORTS OF KHALID AHMED, M.D. ARE MORE PERSUASIVE THAN THE REPORTS BY PANEL QUALIFIED MEDICAL EXAMINER DAVID L. WOOD, M.D.

It is well established that the WCJ and the Appeals Board are empowered to choose among conflicting medical reports and rely on that which is deemed most persuasive. (*Jones v. Workmen's Comp. Appeals Bd.* (1968) 68 Cal.2d 476 [33 Cal.Comp.Cases 221]; see also *Nunes v. State of California, Dept. of Motor Vehicles* (2023) 88 Cal.Comp.Cases 741 [2023 Cal. Wrk. Comp. LEXIS 301] (Appeals Board en banc).) In this case, the submission was vacated to determine the cause of the thoracic spine injury on September 23, 2024. The case was submitted again on February 2, 2026. Defendant had more than 16 months to get Dr. Wood all the record necessary for him to make a decision. Dr. Wood was equivocal about the causation of the thoracic spine injury. In the report by panel

qualified medical examiner David L. Wood, M.D. dated March 20, 2025, he stated “While it *may* be within a reasonable medical probability that he could have sustained an aggravation or an exacerbation to his thoracic spine based on the described mechanism of injury, I have not been provided with any medical records that would support his complaints of increased pain to his thoracic spine as a result.” (Exhibit 19 at the bottom of page 6 (emphasis added).) The word “may” indicates uncertainty as to the reasonable medical probability and does not answer the question of causation. On page 7 of the report Dr. Wood states “Upon receipt of this information I would be happy to issue a supplemental report further developing the medical record and addressing causation, whole person impairment and apportionment for the thoracic spine.” Dr. Wood never addressed the medical-legal question proposed in the order vacating submission to develop the record. Dr. Wood’s report cannot be used to determine permanent impairment of the Applicant. For the above reasons, the undersigned WCJ rejected the findings of the panel qualified medical examiner.

Defendants had from the date of the report on March 20, 2025 until February 2, 2026, almost a year to get the diagnostic testing, a current MRI, requested by Dr. Wood. This brings up the question of if defendant was diligent in pursuing their right to a final panel qualified medical examiner report. The undersigned WCJ finds they were not diligent and does not believe the WCAB should give the defendants another bite at the apple.

RECOMMENDATION:

The undersigned WCJ respectfully recommends that Defendant’s Petition for Reconsideration dated March 13, 2026 be denied.

For the foregoing reasons,

IT IS ORDERED that Defendant's Petition for Reconsideration of the Findings, Award and Order of February 23, 2026 is **GRANTED**.

IT IS FURTHER ORDERED that as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the Findings, Award and Order of February 23, 2026 is **AFFIRMED** except that it is **AMENDED** as follows:

FINDINGS OF FACT

1. Applicant Ricardo Baez, age 57 on the date of injury, while employed on August 21, 2020 as a warehouse associate, Occupational Group Number 360, by Amazon, sustained injury arising out of and in the course of employment to his lumbar spine, thoracic spine, hips, and cervical spine.
2. At the time of injury, the employer's workers' compensation carrier was American Zurich Insurance company.
3. At the time of injury, the employee's earnings were \$329.33 per week, warranting indemnity rates of \$219.55 for temporary disability and \$219.55 for permanent disability.
4. Khalid Ahmed, M.D. is the primary treating physician.
5. Applicant was temporarily disabled from April 16, 2021 to February 17, 2022. Applicant is owed temporary disability indemnity at \$219.55 per week for the period April 16, 2021 to February 17, 2022, less credit for amounts paid thereon, and less credit for time Applicant worked during the period. Fifteen percent of the remaining amount is to be withheld as and for Attorney fees.
6. Applicant was permanent and stationary on June 17, 2022.
7. There are legal grounds for apportionment.
8. The applicant is entitled to an award of permanent partial disability of thirty-eight percent (38%), equivalent to 187 weeks of indemnity payable at the rate of \$219.55 per week, in the total sum of \$41,055.85, payable starting February 18, 2022, less credit for amounts paid by defendant on account thereof, and less reasonable attorney fees.
9. Applicant is in need of further medical treatment to cure or relieve from the effects of the injury herein.
10. Applicant's attorneys have performed reasonable services relating to

applicant's award of temporary disability indemnity as 15% of temporary disability indemnity due and owing.

11. Applicant's attorneys have performed reasonable services relating to applicant's award of permanent disability indemnity in the amount of \$6,158.38 to be commuted from the far end of the award as necessary.

AWARD

AWARD IS MADE in favor of RICARDO BAEZ against the AMERICAN ZURICH INSURANCE COMPANY, as follows:

- a) Temporary disability indemnity payable as set forth in finding five above;
- b) Permanent disability indemnity payable as set forth in finding eight above;
- c) Further medical treatment as set forth in finding nine above;
- d) Attorney fees payable as set forth in findings ten and eleven above.

ORDERS

IT IS HEREBY ORDERED that fifteen percent (15%) of temporary disability indemnity after deductions for the credits be deducted from temporary disability due and owing applicant as reasonable attorney fees and paid forthwith to Howser Law Offices.

IT IS FURTHER ORDERED that the sum of \$6,158.38 be deducted from permanent disability due and owing applicant as reasonable attorney fees and paid forthwith to Howser Law Offices. If insufficient funds for attorney fees have been withheld from any advances paid to applicant, defendants are to pay said attorney fees in addition to sums paid.

IT IS FURTHER ORDERED that the issue of liens is off calendar, with jurisdiction reserved, to be reset before this Board upon the filing of a Declaration of Readiness.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

I CONCUR,

/s/ LISA A. SUSSMAN, DEPUTY COMMISSIONER

/s/ JOSEPH V. CAPURRO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

May 22, 2026

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

**RICARDO BAEZ
HOWSER LAW OFFICES, INC.
EMPLOYER DEFENSE ANAHEIM**

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