

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

ROMARICO RAMIREZ, *Applicant*

vs.

RAYNE WATER, INC.; INSURANCE COMPANY OF THE WEST, *Defendants*

**Adjudication Numbers: ADJ18421273, ADJ18421294
Van Nuys District Office**

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

Applicant seeks reconsideration of two decisions issued concurrently by a workers' compensation administrative law judge (WCJ). In a Findings and Award of October 30, 2025 in case ADJ18421273, it was found that while employed as a water system technician on December 28, 2020, applicant sustained industrial injury to his right shoulder, causing permanent disability of 11% and the need for further medical treatment. In a Findings and Award of October 30, 2025 in case ADJ18421294, it was found that while employed as a water system technician during a cumulative period ending July 7, 2021, applicant sustained industrial injury to his cervical and lumbar spine causing permanent disability of 23% and the need for further medical treatment, but that there was no cumulative injury to the shoulders, elbows, knees, or in the forms of hypertension or diabetes.

Applicant contends that the WCJ erred in (1) finding only 11% and 23% permanent disability in the respective cases, arguing that the WCJ should have followed the opinions of treating physician orthopedist Edwin Haronian, M.D. rather than panel qualified medical evaluator orthopedist Robert Watkins III, M.D. and in (2) not finding industrial injury and disability with regard to the left shoulder, left elbow, knees, or "internal medicine" claims such as diabetes and hypertension. We have received an Answer from defendant and the WCJ has filed a Report and Recommendation on Petition for Reconsideration.

As explained below, we will grant reconsideration, rescind the WCJ's decisions, and return these matters to the trial level for further development of the medical record, analysis, and decision.

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 January 2, 2026 and 60 days from the date of transmission is March 3, 2026. This decision is issued by or on March 3, 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 January 2, 2026, and the case was transmitted to the Appeals Board on January 2, 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 January 2, 2026.

Turning to the merits, the WCJ relied upon the opinions of panel qualified medical evaluator orthopedist Robert Watkins III, M.D. with regard to industrial injury and permanent disability with regard to applicant's orthopedic claims. Accordingly, it was found that applicant's right shoulder injury and disability was attributable to the specific injury, the cervical and lumbar spine injuries were attributable to a cumulative injury, and that there were no further injuries to any other body part. Dr. Watkins issued reports dated January 30, 2024, April 19, 2024, June 27, 2024, and November 27, 2024. We note that while Dr. Watkins evaluated applicant's left shoulder, elbows and knees, and appears to have not attributed any permanent impairment to these body parts, he never expressly states that there was no industrial injury to these body parts. In fact, we note that Dr. Watkins lists "left arm shoulder bursitis" among applicant's diagnoses (January 30, 2024 report at p. 45), but does not discuss industrial causation (or lack of it) in his reporting. The record must be further developed for Dr. Watkins to clarify whether industrial injury to these other body parts caused disability or the need for medical treatment.

With regard to applicant's "internal medicine" complaints such as hypertension, diabetes, and gastrointestinal issues, panel qualified medical evaluator internist Stanley J. Majcher, M.D. concluded that applicant's injuries could not have been caused by the December 28, 2020 specific injury because these issues preexisted the specific injury by many years. As Dr. Majcher writes in his June 3, 2024 report, "Based on the voluminous new set of medical records, kindly note the applicant's internal medical conditions, including hypertension, diabetes, and colon polyp have been noted prior to his industrial injury. Based on the information in the new set of medical records, the applicant's hypertension and diabetes had been detected prior to his industrial specific injury." (June 3, 2024 report at p. 19.) However, as Dr. Machjer himself wrote in his initial February 19, 2024 report, applicant began working for the employer in 1988, over 30 years prior to the specific injury, and claimed industrial injury to these "internal medicine" conditions as a result of the cumulative injury (Minutes of Hearing and Summary of Evidence of October 23, 2025 trial at p. 3.) Accordingly, Dr. Machjer must opine whether any work exposure over this cumulative period contributed to disability or the need for medical treatment.

The WCAB has a duty to further develop the record when there is a complete absence of (*Tyler v. Workers' Comp. Appeals Bd.* (1997) 56 Cal.App.4th 389, 393-395 [62 Cal.Comp.Cases 924]) or even insufficient (*McClune v. Workers' Comp. Appeals Bd.* (1998) 62 Cal.App.4th 1117, 1121-1122 [63 Cal.Comp.Cases 261]) evidence on an issue. The WCAB has a constitutional mandate to ensure "substantial justice in all cases." (*Kuykendall v. Workers' Comp. Appeals Bd.* (2000) 79 Cal.App.4th 396, 403 [65 Cal.Comp.Cases 264].) In accordance with that mandate, we grant reconsideration, rescind the WCJ's decisions, and return these matters to the trial level so that these matters can be reanalyzed and decided on a more complete record. The parties and the WCJ may also reanalyze any other outstanding issue. We express no opinion on the ultimate resolution of any issue in these matters.

For the foregoing reasons,

IT IS ORDERED that Applicant's Petition for Reconsideration of the Findings and Award of October 30, 2025 in case ADJ18421273 and the Findings and Award of October 30, 2025 in case ADJ18421294 is **GRANTED**.

IT IS FURTHER ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the Findings and Award of October 30, 2025 in case ADJ18421273 and the Findings and Award of October 30, 2025 in case ADJ18421294 are **RESCINDED** and that these matters are **RETURNED** to the trial level for further proceedings and decision consistent with the opinion herein.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

CRAIG L. SNELLINGS, COMMISSIONER
PARTICIPATING NOT SIGNING



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

March 3, 2026

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

**ROMARICO RAMIREZ
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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