

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

**TAMMERA JOHNSON, *Applicant***

**vs.**

**MARIN COMMUNITY COLLEGE DISTRICT, permissibly self-insured; administered by  
KEENAN ASSOCIATES, *Defendant***

**Adjudication Numbers: ADJ19640948; ADJ15455320  
San Francisco District Office**

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

Applicant filed a Petition for Reconsideration (Petition) in response to the Joint Findings of Fact and Orders (FF&O) dated March 4, 2026. In the FF&O, the workers' compensation administrative law judge (WCJ) found in pertinent part that in "case numbers ADJ19640948 and ADJ15455320, applicant did not sustain injuries arising out of and occurring in the course of her employment." The WCJ ordered "that applicant take nothing by way of the claims she has asserted herein."

In the Petition, applicant contends her due process rights were denied when she was not allowed to cross-examine Panel Qualified Medical Examiner (PQME) Dr. Schmitz.

Defendant filed an Answer.

The WCJ's Report and Recommendation (Report) recommends reconsideration be denied.

After our review of the record and for the reasons discussed below, we will grant the Petition for Reconsideration, rescind the March 4, 2026, Joint Findings of Fact and Orders, and return the matter to the WCJ for further proceedings consistent with this opinion.

## I.

Former Labor Code section 5909<sup>1</sup> 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. (Former 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.

(Lab. Code, § 5909.)

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 both cases were transmitted to the Appeals Board on March 20, 2026, and 60 days from the date of transmission is Tuesday, May 19, 2026. This decision issued by or on May 19, 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.

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<sup>1</sup> Unless otherwise stated, all further statutory references are to the Labor Code.

According to the proof of service, the Report was served on March 20, 2026, and the case was transmitted to the Appeals Board on March 20, 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 March 20, 2026.

## II.

As stipulated by the parties, applicant, while employed by defendant during the period from July 11, 2016, through July 31, 2022 (ADJ19640948), and on August 3, 2021 (ADJ15455320), as clerical staff, claims injury to the bilateral eyes, teeth, head, circulatory system, left knee, left leg, and psyche.

Because applicant raises a procedural due process claim in the Petition, our review focuses primarily on the pleadings for which we provide the following summary.

On November 22, 2021, an application for adjudication of claim was filed for a claimed specific injury on August 3, 2021, assigned case number ADJ15455320.

On February 2, 2024, defendant filed a declaration of readiness to proceed (DOR) in ADJ15455320, seeking a mandatory settlement conference (MSC), on the limited issues of temporary disability, permanent disability, and future medical. Defendant noted applicant was evaluated by a panel qualified medical evaluator (PQME) and that the evaluator had been deposed. Defendant states “[n]o causation found, applicant not participating in settlement discussions, Board assistance requested.”

Applicant filed an objection to DOR on February 26, 2024, and an amended objection to the DOR on March 5, 2024, both asserting that discovery was incomplete.

On March 28, 2024, MSC was held in ADJ15455320 continuing the case to a Priority Conference (PC) without further explanation. At the June 27, 2024, PC the case was continued with the notation judge to order psyche panel.

On August 5, 2024, an application for adjudication of claim was filed for a cumulative claim through July 31, 2022, which was assigned case number ADJ19640948.

Minutes from an October 3, 2024, PC for the first time contain both case numbers and reflect joint continuance with parties’ comments of “Psyche PQME on 10/25/24.” On January 2,

2025, both cases were continued over defendant's objection. The comments reflect "AA to request a supplemental report from cardiac PQME based on review of psyche PQME."

In the pre-trial conference statement (PTCS) dated March 13, 2025, and signed March 14, 2025, both cases were set for trial. Under the issues page (only provided for ADJ15455320) it states: "Applicant asserts her due process right to conduct discovery on the complex and novel medical question of industrial contribution to the development of her conditions related to her employer-mandated vaccine, work stress and other industrial factors which have not been fully developed by med-legal evaluators. Applicant is awaiting supplemental report from QME Schmitz and cross-examination of QME Keins. Applicant strenuously objects to trial setting." The Judge's Conference Notes include: "The only issue set for trial is injury aoe/coe for each date of injury." Under disposition and orders it states: "Discovery is: OPEN."

An April 28, 2025, minutes for both cases note: "Trial continued over defendant's objection. At the 4/28/2025 trial, applicant's attorney informed this WCJ that the deposition of the psych QME is set for 07/23/2025, and an additional PTP report is pending. At the continued trial date, any further continuances for further discovery will not be allowed."

On September 8, 2025, both cases were tried electronically with ADJ19640948 designated as the master file as reflected in the Minutes of Hearing, Order of Consolidation, and Summary of Evidence (FIRST MOH.) The minutes include:

**IN CASE NO. ADJ19640948, THE PARTIES STIPULATE AS FOLLOWS:**

Applicant, Tammera Johnson, born on [DOB], while employed during the period from 7/11/2016 through 7/31/2022 as clerical staff, Occupational Group Number 111, in Novato, California, by Marin Community College, permissibly self-insured, claims to have sustained injury arising out of and in the course of employment to the bilateral eyes, teeth, head, circulatory system, left knee, left leg, and psyche.

**IN CASE NO. ADJ15455320, THE PARTIES STIPULATE AS FOLLOWS:**

Applicant, Tammera Johnson, born on [DOB], while employed on 8/3/2021 as clerical staff, Occupational Group Number 111, in Novato, California, by Marin Community College, permissibly self-insured, claims to have sustained injury arising out of and in the course of employment to the bilateral eyes, teeth, head, circulatory system, left knee, left leg, and psyche.

**THE ISSUE IS:**

AOE/COE in both cases.

All other issues are deferred.

(FIRST MOH, p. 2, lns 24-47, emphasis in original.)

The September trial minutes also reflects that joint exhibits 1 - 6, applicant's exhibits 1- 6, and defendant's A were admitted, while applicant's exhibit 7 was marked for identification with ruling on admissibility to be made at the time of decision.<sup>2</sup> (MOH ONE, pg. 3, ln 11 – pg. 4, ln 44.) The applicant testified and the employer interim senior benefits analyst, Connie Lehua, testified over applicant's objection. (FIRST MOH, p. 12, lns 27-30.)

The second day of electronic trial occurred on October 7, 2025, resulting in "Minutes of Hearing and Summary of Evidence \*\*\*Amended Disposition Order\*\*\*" (SECOND MOH) which includes the following:

We had an off-the-record discussion. Applicant objects to the trial proceeding on the grounds that there is still outstanding discovery. Applicant solicited a supplemental report from the QME Dr. Schmitz. The QME issued a supplemental report seeking clarification. Applicant has since sent another letter with that information to the QME, and that supplemental report is pending. I will take judicial notice of the April 28, 2025, Minutes of Hearing. Applicant's request for the matter to go off calendar is denied.

(SECOND MOH TWO, p. 2, lns 3-11.) Applicant exhibits 8 and 9 were admitted and the minutes then go on to reflect:

We had another off-the-record discussion. Applicant also objects to the trial going forward on the grounds listed in the Pre-Trial Conference Statement on page 4. I will take judicial notice of the Pre-Trial Conference Statement and will also attach a copy of applicant's objections to these Minutes of Hearing.

### **ATTACHMENT DAY 2 MINUTES OF HEARING**

Applicant asserts her due process right to conduct discovery on the complex and novel medical question of industrial contribution to the development of her conditions related to her employer-mandated vaccine, work stress and other industrial factors which have not been fully developed by med-legal evaluators. Applicant is awaiting supplemental report from QME Schmitz and cross-examination of QME Keins.

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<sup>2</sup> Review of this matter was complicated by both joint and applicant's exhibits being numerically identified beginning at 1. This resulted in two exhibits each for 1 through 7. The parties are advised it is better practice to use unique identifiers in the future such as AA or A1 for joint exhibits to avoid confusion.

Applicant strenuously objects to trial setting.

(SECOND MOH, p. 2, lns 32-47.) Examination of witness Connie Lehua then continued.

At the end of the minutes for the second day of trial is the following:

**ATTACHMENT DAY 2 MINUTES OF HEARING**

Applicant asserts her due process right to conduct discovery on the complex and novel medical question of industrial contribution to the development of her conditions related to her employer-mandated vaccine, work stress and other industrial factors which have not been fully developed by med-legal evaluators. Applicant is awaiting supplemental report from QME Schmitz and cross-examination of QME Keins. Applicant strenuously objects to trial setting.

(SECOND MOH, p. 6, lns 1-7, emphasis in original.)

The third day of electronic trial occurred on January 12, 2026, resulting in Minutes of Hearing and Offer of Proof (THIRD MOH). Joint exhibit 7, and applicant's exhibits 10 – 13 were all admitted. Defendant's offer of proof as to testimony from employer witness Connie Lehua was accepted by the WCJ without objection. (THIRD MOH, p. 2, lns 6 – 39; 43 - 47.) "The parties may file and serve post-trial briefs no later than January 26, 2026, at which time the matter shall stand submitted." (THIRD MOH, p. 3, lns 25-26.)

Joint exhibit 7 is a supplemental report from PQME Dr. Schmitz, dated November 17, 2025, in response to applicant's attorney's letter which "included 10 scientific reports and a second deposition from the psychiatric QME, Dr. Judith Keins." (Joint Exhibit 7, PQME Dr. Schmitz, p. 2.) The forty-three-page report is signed December 31, 2025, and does not include proof of service. (Joint Exhibit 7, PQME Dr. Schmitz, p. 43.)

Applicant's exhibit 10 is a deposition notice dated January 9, 2026, scheduling PQME Dr. Schmitz deposition for March 16, 2016. (Applicant Exhibit 10, p. 1.)

On March 4, 2026, the FF&O issued. "In case numbers ADJ19640948 and ADJ15455320, applicant did not sustain injuries arising out of and occurring in the course of her employment." (FF&O, p. 1, finding 4.) "**IT IS ORDERED** that applicant's exhibit 7 be, and it hereby is, **ADMITTED** into evidence. **IT IS FURTHER ORDERED** that applicant take nothing by way of the claims she has asserted herein." (FF&O, p. 2.)

It is from this FF&O that applicant seeks reconsideration.

### III.

We observe that a grant of reconsideration has the effect of causing “the whole subject matter [to be] reopened for further consideration and determination” (*Great Western Power Co. v. I.A.C. (Savercool)* (1923) 191 Cal. 724, 729 [10 I.A.C. 322]) and of “[throwing] the entire record open for review.” (*State Comp. Ins. Fund v. I.A.C. (George)* (1954) 125 Cal.App.2d 201, 203 [19 Cal.Comp.Cases 98].) Thus, once reconsideration has been granted, the Appeals Board has the full power to make new and different findings on issues presented for determination at the trial level, even with respect to issues not raised in the petition for reconsideration before it.

#### I.

Parties to a workers’ compensation proceeding retain the fundamental right to due process and a fair hearing under both the California and United States Constitutions. (*Rucker v. Workers’ Comp. Appeals Bd.* (2000) 82 Cal.App.4th 151, 157-158 [65 Cal.Comp.Cases 805].) A fair hearing is “one of ‘the rudiments of fair play’ assured to every litigant....” (*Id.* at p. 158.) As stated by the Supreme Court of California in *Carstens v. Pillsbury* (1916) 172 Cal. 572, “the commission...must find facts and declare and enforce rights and liabilities, -- in short, it acts as a court, and it must observe the mandate of the constitution of the United States that this cannot be done except after due process of law.” (*Id.* at p. 577.)

A fair hearing includes, but is not limited to, the opportunity to offer evidence in rebuttal. (See *Gangwish v. Workers’ Comp. Appeals Bd.* (2001) 89 Cal.App.4th 1284, 1295 [66 Cal.Comp.Cases 584].) Indeed:

Although the California Constitution states that a goal of workers’ compensation proceedings is to “accomplish substantial justice in all cases expeditiously, inexpensively, and without incumbrance of any character . . .” (Cal. Const., art. XIV, § 4), the right to due process is paramount to the goal of conducting workers’ compensation proceedings expeditiously. We therefore conclude that denial of a fair trial to a [party] is reversible per se.

(*Beverly Hills Multispecialty Group, Inc. v. Workers’ Comp. Appeals Bd. (Pinkney)* (1994) 26 Cal.App.4th 789, 806 [59 Cal.Comp.Cases 461].)

The record contains several uncertainties.<sup>3</sup> We consider the record here in terms of the due process right to provide rebuttal evidence.

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<sup>3</sup> For example, it is unclear why this matter proceeded to trial in the cumulative claim based on a DOR filed six months before the cumulative claim was filed. It is unclear why the cumulative claim was added to the October 3, 2024, minutes. It is unclear why the cases were set for trial from PC where the WCJ does not note nor explain if discovery

Throughout these proceedings applicant maintained that discovery was ongoing and the matter was not ready to proceed to trial.

On the final day of trial held January 12, 2026, the WCJ admitted Joint Exhibit 7, the forty-three-page supplemental report from PQME Dr. Schmitz, dated November 17, 2025, (but signed on December 31, 2025). The report was issued after review of “10 scientific reports and a second deposition from the psychiatric QME, Dr. Judith Keins.” (Joint Exhibit 7, PQME Dr. Schmitz, pp. 2, 43.) PQME Dr. Schmitz found “It **is not** within a reasonable degree of medical probability that the applicant suffered any injuries to her heart or venous system as a consequence of her receipt of the Moderna COVID-19 vaccine.” (Joint Exhibit 7, PQME Dr. Schmitz, p. 35, emphasis in original.) Also admitted was applicant’s Exhibit 10, a notice of deposition dated January 9, 2026, scheduling PQME Dr. Schmitz deposition for March 16, 2016. (Applicant Exhibit 10, p. 1.) The WCJ ordered the cases submitted January 26, 2026.

On March 4, 2026, FF&O issued denying injury.

As noted above, at trial the WCJ admitted Joint Exhibit 7, the supplemental report of PQME Dr. Schmitz. This report was signed just twelve days before trial on December 31, 2026. This report was significant as it reviewed ten scientific reports, a PQME deposition and was forty-three-pages long. Within nine days of the report being signed applicant scheduled the PQME’s deposition.

On these facts, because the WCJ ordered submission, applicant was not afforded the opportunity to offer evidence in rebuttal to Joint Exhibit 7. (*Gangwish, supra*, p. 1295.) The opportunity to provide rebuttal evidence is foundational to a fair trial.

Here, applicant was denied a fair trial and, as such, we will rescind the FF&O and return these cases to the trial level for further discovery consistent with this opinion. (*Pinkney, supra*, 806.)

## 2.

Although we return these cases for further proceedings on due process grounds, we discern it may be beneficial for the parties to re-examine the substantiality of the expert medical reporting.

“Medical reports and opinions are not substantial evidence if they are known to be erroneous, or if they are based on facts no longer germane, on inadequate medical histories and

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was complete or if the parties had sufficient time to complete reasonable discovery as required by section 5502(c). This is especially concerning where the WCJ left discovery open at the time of trial setting.

examinations, or on incorrect legal theories. Medical opinion also fails to support the Board's findings if it is based on surmise, speculation, conjecture or guess." (*Hegglin v. Workmen's Comp. Appeals Bd.* (1971) 4 Cal.3d 162, 169 [36 Cal.Comp.Cases 93]).

PQME Dr. Schmitz first evaluated applicant with report of August 15, 2022, (Joint Exhibit 3), was deposed on November 13, 2023, (Joint Exhibit 5), and issued supplemental reports of April 1, 2024, January 13, 2025, November 17, 2025, (Joint Exhibits 2, 1, and 7), and May 23, 2025, (Applicant Exhibit 1.)

Prior to the last three supplemental reports on August 5, 2024, applicant filed an application for cumulative injury through July 31, 2022, for claimed injury to the same body parts as pled in the specific case. This claim was assigned case number ADJ19640948.

It appears from this record that PQME Dr. Schmitz was not aware of applicant's claim for cumulative injury. None of his reports appear to reference a claim of cumulative injury generally nor specifically the case ADJ19640948. This is concerning because a report based on "inadequate medical histories" or "incorrect legal theories" may well be found to not be substantial evidence. (*Hegglin, supra*, p. 169.) It is even more difficult to understand how such reporting can be the basis for the finding of no injury in the cumulative claim ADJ19640948 when that claim was apparently not considered by the PQME.<sup>4</sup>

Additionally, it appears PQME Dr. Schmitz may be applying the wrong legal standard when evaluating causation of an industrial injury. For example, it appears much of PQME Dr. Schmitz reasoning is predicated on the conclusion that after "an exhaustive review of the applicant's medical records post-vaccination, the symptoms described to Dr. Rucker and two cardiologists were inconsistent with either pericarditis or myocarditis" and therefore there "is no evidence of cardiac complications attributable to the Moderna vaccine." (Joint Exhibit 2, PQME Dr. Schmitz, April 1, 2024, p. 22.) This may well be the correct conclusion. It appears there is, however, no indication that PQME Dr. Schmitz independently considered applicant's history when formulating his causation opinions but instead relied solely on symptoms reported to medical providers almost a month after the claimed specific industrial injury.

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<sup>4</sup> We further note it is unclear if PQME Dr. Schmitz felt himself capable of evaluating a cumulative trauma claim for such body parts as bilateral eyes, teeth, head, left knee, and left leg, or if evaluation by a different specialty would be warranted.

During the first day of trial applicant testified:

She agreed it was within about 24 hours after the second vaccine shot on August 31 that she experienced swelling, and then experienced fatigue and pain and took time off. On approximately September 16, she started feeling lightheaded and dizzy at work and it progressed to worsening symptoms. She thought maybe she needed to splash water on her face. She went to the next building to the bathroom and all the lights were off and she was terrified that something bad would happen and no one would be there to help. She went to a different building and put her head between her legs. She started sweating and her neck hurt so bad. She walked out and sat down. She wanted to go to her car, but she could not move and she had to sit there for a while. It did not go away for a long time. She then went to an office and sat down under the air-conditioning vent. That helped with the sweat, and she worked on her breathing. She did not know if she should call 911, and her heart was pounding. She did not know if she was having a heart attack. She was short of breath. The neck pain was really bad. The worst was the palpitations and pouring sweat. That was approximately 17 days after the second Moderna vaccine.

(FIRST MOH, p. 6, lns 3-21.) Applicant also testified:

She was very scared with the heart palpitations. She did not know if she should dial 911. She dialed the 9 and the 1 and then waited and tried to breathe. She remembered the hospitals were overrun, and she was scared that she was going to die. There were tents outside. It was scary.

FIRST MOH, p. 9, lns 1-5.) It appears clear applicant is describing events during the Covid-19 pandemic.

PQME Dr. Schmitz provides a truncated version of applicant's history in his first report. (Joint Exhibit 3, PQME Dr. Schmitz, August 15, 2022, pp. 4-5.) The doctor does not, however, provide his opinion as to what effect, if any, this history has on his opinions. Nor does the doctor address if the trier of fact found such history correct, how that might change his opinions.

“Expert testimony is necessary where the truth is occult and can be found only by resorting to the sciences.” (Peter Kiewit Sons v. Industrial Acc. Com. (1965) 234 Cal.App.2d 831, 838 [30 Cal.Comp.Cases 188].) To be substantial evidence, however, such expert medical testimony “must set forth reasoning in support of its conclusions.” (*Escobedo v. Marshalls* (2005) 70 Cal.Comp.Cases 604, 621 (Appeals Board en banc).) Providing such reasoning allows the trier of fact to meaningfully evaluate the opinion. In this case, the expert medical opinion apparently does not address the history of injury as perceived by the applicant and is therefore likely not substantial.

In the psychiatric realm PQME Dr. Keins evaluated the applicant and issued a report dated October 26, 2024. (Joint Exhibit 4.) PQME Dr. Keins was also deposed on July 23, 2025. (Joint Exhibit 6.)

Where PQME Dr. Schmitz's reporting appears to revolve solely around the claimed specific injury, PQME Dr. Keins appears to only address the claim of cumulative injury. (Joint Exhibit 4, PQME Dr. Keins, October 26, 2024, pp. 36-50.) This occurs despite PQME Dr. Keins acknowledging defendant's cover letter referencing the specific injury. (Joint Exhibit 4, PQME Dr. Keins, October 26, 2024, pp. 36-37.) As discussed above, and although presented in the inverse consideration of injuries, it is difficult to assign probative weight to PQME Dr. Keins' opinions in the specific injury claim when that claim is apparently not analyzed by the doctor.

Perhaps more troublesome is the lack of reference to, or demonstration of understanding by the PQME, of the relevant law when providing what appears to be a conclusory analysis. The opinions may be correct, but the trier of fact has no way to determine if that is so based on the reporting for a cumulative psychiatric claim so far. (See i.e. Lab. Code §§ 3208.1, 3208.3, 5500.5, and 5412.) Perhaps the most obvious statement that calls into question the doctor's reasoning is: "In my opinion, 200+ pages of documentation of progressive personnel action while she was employed at the College of Marin supports my conclusion that any emotional distress that she experienced was in response to lawful, good-faith, non-discriminatory personal action, and therefore not compensable." (Joint Exhibit 4, PQME Dr. Keins, October 26, 2024, p. 48.)

The correct sequence for evaluating if an injury is the result of a lawful, nondiscriminatory, good faith personnel action, is for the evaluating physician to "offer their opinion as to the percentage of causation for any such alleged or apparent actions" while it is up to the WCJ to determine "whether the lawful, nondiscriminatory, good faith personnel actions were a 'substantial cause' of the psychiatric injury." (*Rolda v. Pitney Bowes, Inc.* (2001) 66 Cal.Comp.Cases 241, 246-47 (Appeals Board en banc).) Here the PQME improperly usurps the role of the trier of fact.

Although PQME Dr. Keins ultimately finds applicant has not sustained an industrial psychiatric injury, we are unable to determine from her reporting how she applied the relevant law to arrive at this conclusion.

From the above, we conclude based on the current record there is a lack of substantial evidence supporting the FF&O.

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].) The Appeals Board 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].) The Board may not leave matters undeveloped where it is clear that additional discovery is needed. (*Kuykendall, supra*, page 404.) The preferred procedure is to allow supplementation of the medical record by the physicians who have already reported in the case. (*McDuffie v. Los Angeles County Metropolitan Transit Authority* (2003) 67 Cal.Comp.Cases 138 (Appeals Board en banc).)

Where it is determined that the medical record requires further development, the preferred procedure is to allow supplementation of the medical record by the physicians who have already reported in the case. If the supplemental opinions of the previously reporting physicians do not or cannot cure the need for development of the medical record, the selection of an 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, supra*, pages 142-143.)

#### IV.

Following our independent review of the record, and for the reasons stated above, we grant applicant's March 13, 2026 Petition for Reconsideration, rescind the March 4, 2026 Joint Findings of Fact and Orders, and return the matter to the WCJ for further proceedings consistent with this decision.

We offer no opinion on the ultimate resolution of any of the issues raised herein.

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 Joint Findings of Fact and Orders issued on March 4, 2026 by the WCJ is **RESCINDED** and the matter is **RETURNED** to the WCJ for further proceedings consistent with this opinion.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ CRAIG L. SNELLINGS, COMMISSIONER**

**I CONCUR,**

**/s/ KATHERINE WILLIAMS DODD, COMMISSIONER**

**KATHERINE A. ZALEWSKI, CHAIR**  
**CONCURRING NOT SIGNING**



**DATED AND FILED AT SAN FRANCISCO, CALIFORNIA**

**May 19, 2026**

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

**TAMMERA JOHNSON  
PEREZ LAW  
MICHAEL SULLIVAN & ASSOCIATES**

**PS/oo**

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