

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

SANTINA CEJA, *Applicant*

vs.

**MORGAN HILL UNIFIED SCHOOL DISTRICT, presumably self-insured,
administered by KEENAN ASSOCIATES, *Defendants***

**Adjudication Number: ADJ11236772, ADJ11236942
San Jose District Office**

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

Applicant in pro per seeks reconsideration of the Findings and Order and Opinion on Decision (F&O) issued on December 16, 2024 by a workers' compensation administrative law judge. The WCJ found that applicant did not sustain injury arising out of and in the course of her employment (AOE/COE) to the head and right upper extremity in ADJ11236772 on June 24, 2015, and did not sustain injury AOE/COE to the head, neck, back, upper extremities and lower extremities in ADJ11236942 during the period August 1, 2008 through March 9, 2008. The WCJ also admitted into evidence applicant's exhibits 2, 3 and 4 but found that they did not constitute substantial medical evidence of injury AOE/COE. The WCJ ordered that pursuant to the findings of fact, applicant take nothing by reason of her claims in both ADJ11236772 and ADJ11236942.

Applicant contends that pain from a prior medical history of a jaw joint surgery was exacerbated by the activities of her job duties which involved sitting, standing, carrying items, typing and interacting with students with emotional and stress issues, and required muscle strength, stability and correct ergonomics; that she was kicked and hit in the foot while performing her duties at work; that she did not require any treatment for her injuries during the timeframes when she was not performing her job duties during summer breaks; and, that the doctors in this case are not qualified head (TMJ) specialists to rule out a correlation between an injury or an exacerbation of an injury.

Defendant filed an "Answer to Petition for Reconsideration of 12/16/2024 Findings of Fact and Orders, Opinion on Decision" (Answer), and the WCJ filed a Report and Recommendation on

Petition for Reconsideration and Notice of Transmission to the Appeals Board (Report). The WCJ recommends that applicant's petition be denied.

We have reviewed the record in this matter, the allegations of the Petition for Reconsideration and the Answer, as well as the contents of the Report. For the reasons set forth below, we grant reconsideration in order to amend the WCJ's decision to find that applicant sustained a specific injury AOE/COE to her head and right upper extremity only on June 24, 2015 in ADJ11236772 (Findings of Fact no. 1, Order), and to include findings of fact that as a result of her specific injury applicant did not suffer disability and does not require any future medical care. Otherwise, we affirm the WCJ's decision as to applicant's cumulative injury in ADJ11236942.

I.

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 February 3, 2025, and 60 days from the date of transmission is April 4, 2025. This decision is issued by or on

April 4, 2025, so that 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 February 3, 2025 and the case was transmitted to the Appeals Board on February 3, 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 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 February 3, 2025.

II.

As an initial matter, we concur with the WCJ's comment in the Report that, "It is noted that, although applicant appears to assert in her petition that she has discovered new evidence material to her that could not have been discovered or produced at the hearing, there is no indication that any of the issues in her petition are due to newly discovered evidence." (Report, p. 3.) Therefore, we do not base the grant of reconsideration on any newly discovered evidence as alleged by applicant in the petition for reconsideration.

Next, the parties stipulated that applicant sustained a specific injury on June 24, 2015 to the head and right upper extremity *only* arising out of and in the course of her employment as a program specialist for defendant Morgan Hill Unified School District (June 24, 2025 specific injury) (Minutes of Hearing and Summary of Evidence, July 3, 2024, p. 2; Pre-Trial Conference Statement, August 30, 2023, p. 2A, Stipulations; see Def. Exh. H, p. 1 [defendant accepted June 24, 2015 injury].) Applicant's medical records from The Permanent Medical Group corroborate the parties' stipulation. (Def. Exh. E, Kaiser Records, at BATES 2481-2516, 2701-2704, 2843-2846.)

Stipulations between counsel are a “substitute for proof” and binding on the parties “if within the authority of the attorneys,” and on the court if “not contrary to law, court rule or policy.” (*Greatorex v. Board of Administration* (1979) 91 Cal.App.3d 54, 58 [44 Cal.Comp.Cases 553].) Stipulations between counsel further “the public policies of settling disputes and expediting trials...” (citation) ‘and their use in workers’ compensation cases should be encouraged.’” (*Fireman’s Fund Ins. Co. v. Workers’ Comp. Appeals Bd. (Allen)* (2010) 181Cal.App.4th 752, 764 [75 Cal.Comp.Cases 1]; see *County of Sacramento v. Workers’ Comp. Appeals Bd. (Weatherall)* (2000) 77 Cal.App.4th 1114, 1121 [65 Cal.Comp.Cases 1].)

We therefore grant reconsideration in order to amend the F&O to find that applicant sustained the June 24, 2015 specific injury.

Next, a decision of the Workers’ Compensation Appeals Board must be supported by substantial evidence, and 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].) An opinion is not substantial evidence if it is based on “inadequate medical histories or examinations, on incorrect legal theories, or on surmise, speculation, conjecture, or guess.” (*Escobedo v. Marshalls* (2005) 70 Cal.Comp.Cases 604, 620-21 (Appeals Bd. en banc).)

We concur with the WCJ that there is no substantial evidence to support a finding of injury to any additional body parts from the June 24 2015 specific injury, or to support a finding of disability or future medical care for the June 24, 2015 specific injury. In addition, we concur with the WCJ that there is no substantial evidence to support a finding that applicant sustained a cumulative injury during the period 8/1/2008 through 3/9/2018 to the head, neck, back, upper extremities and lower extremities arising out of and in the course of her employment as a program specialist for defendant Morgan Hill Unified School District in ADJ11236942.

Applicant, SANTINA CEJA, claims to have sustained injury arising out of and in the course of employment to her head and right upper extremity on 6/24/2015, while helping an emotionally distraught student exit the school bus. The student became enraged and hit applicant with a backpack, striking the applicant on her face, cheek, jaw, side of head, neck, shoulders, and upper body. The student also bit applicant’s left and right forearms and scratched, kicked, and stomped on the top of her left foot. Applicant was able to restrain the student, and did so for approximately one hour. **She was treated at Kaiser and released**

to full duty the following day. Applicant was discharged from care for this injury on 1/26/2016, with no permanent disability and no future medical care. (Exhibit H)

...

As summarized in the undersigned's opinion, applicant was examined by **QME Dennis Moore, D.C.** In his initial 08/04/2018 report, he noted applicant's history as she explained it to him, but ultimately concluded he needed to review Kaiser records to corroborate her medical history. He stated, "I need to know in detail whether or not her treatment protocol changed at all and the degree of change if any subsequent to the on the job injury of June 24, 2015." On page 11, he stated, **"I cannot really answer whether she has been subject of cumulative trauma authoritatively because I have no records from Kaiser for her treatment from 2008 up until and including the current industrial injury of June 24, 2015 and thereafter. She has been treated at Kaiser since 2008 so there are at least 10 years of medical records that I have not reviewed. Any opinion without a review of those records would be speculative and conjecture on my part and would not be allowed under Escobedo."** (Exhibit A)

In his report on 6/03/2019, Dr. Moore indicated that contrary to applicant's assertion that she told Dr. Ravendra she was experiencing pain in the wrists and hands each time she would have checkup, he noted there was no mention of persistent headaches, neck pain, left arm weakness, jaw pain, and calf and left foot pain in Dr. Ravendra's reports. Similarly, **Dr. Moore stated, "there is nothing in the medical record indicating Ms. Ceja ever mentioned anything to Dr. Thai or followed up with Dr. Thai about having persistent headaches, neck pain, left arm weakness, jaw pain or lower extremity pain from the on the job injury of June 24, 2015."** Dr. Moore also noted that in her deposition testimony applicant denied having any headaches or neck pain, left shoulder pain, left upper back pain, left shoulder blade pain, bilateral forearm pain, weakness in left arm, stiffness in left thumb web associated with left shoulder symptoms prior to the on the job injury of June 24, 2015. However, he noted the statements "do not square with the medical record." **Dr. Moore indicated that according to the 11/10/2010 Kaiser notation, applicant had been taking medication on and off for a few years for neck pain. He also noted neck pain as of 6/13/2011, and neck pain with history of physical abuse. (Joint Exhibit 1)**

Applicant was referred by her attorney to Christopher Chen, M.D., who issued a special primary treating physician report, dated 11/15/2019. He found applicant was permanent and stationary as of 11/15/2019. Dr. Chen assigned 49% WPI for her sinus, nose, and difficulties with breathing, 8% WPI for the cervical spine, and 6% WPI for the bilateral upper extremities. **Dr. Chen indicated he did not find apportionment to prior conditions "because prior**

to Ms. Ceja's working at Morgan Hill USD, she did not have injuries to her face, jaw, neck, back, UEs, absent evidence to the contrary." (Exhibit 2)

On 10/05/2020, Dr. Moore re-examined applicant, reviewed and summarized extensive Kaiser Permanente medical records dating back to 2010, and the reports of Dr. Chen. He issued a comprehensive 112-page report noting applicant's symptoms of jaw pain, neck pain, left shoulder and left foot worsening and complaints of worsening jaw and neck pain in the last year and a half. However, on page 105, under diagnosis and causation, Dr. Moore concluded the following:

Migraine Headaches - preexisting and non-industrial related to Morgan Hill Unified School District.

Temporomandibular Joint Bilateral Ankylosis - preexisting and non-industrial related to Morgan Hill Unified School District.

Cervical Disc Degeneration - preexisting and non-industrial related to Morgan Hill Unified School District.

Left Shoulder Subjective Pain - preexisting and non-industrial related to Morgan Hill Unified School District.

Lumbar Spine Subjective Pain - preexisting and non-industrial related to Morgan Hill Unified School District.

Dr. Moore explained the facts and medical records supporting his opinion for each body part, noting applicant's long and complex history of symptoms, activity limitations, and invasive medical treatment for migraine headaches, temporomandibular joint problems, and cervical spine problems. For the left shoulder, lumbar spine, and left foot/ankle he indicated applicant does not have active, symptomatic conditions for those body parts, that her symptoms do not rise to the level of injury, and that they do not require medical treatment. He further opined that there is no medical evidence that applicant's left shoulder and lumbar spine symptoms can be traced to the 6/24/2015 incident. He opined there is no medical evidence that the 6/24/2015 industrial injury exacerbated or aggravated the pre-existing conditions. (Joint Exhibit 2)

On 3/22/2021, Dr. Moore issued a supplemental report in which he disagreed with Dr. Chen's opinion. On pages 2 and 3 he stated, "Once I had exhaustively reviewed Kaiser records it was apparent that Ms. Ceja had a long history of symptoms, activity limitations, and invasive medical treatment for problems with the temporomandibular joint for several decades. Given her multiple surgeries and difficulties with her jaw since childhood in my opinion I could find no medical evidence that the industrial injury of 6/24/15 exacerbated or aggravated the pre-existing condition of her temporomandibular joint." He opined that apportionment is not an issue because her injuries were not industrially caused. He also did not find industrial causation for her migraine headaches, cervical disc degeneration, left shoulder

subjective pain, and lumbar spine subjective pain. Dr. Moore concluded that the medical record is clear that applicant's injuries were pre-existing and not industrially caused. **(Exhibit B)**

On 3/30/2022, Dr. Chen issued a supplemental report in which he disagreed with Dr. Moore's findings. He stated Dr. Moore did not consider that absent the 6/24/2015 injury, applicant's head, jaw, neck, and lower back symptoms would not have worsened nor accelerated her symptoms. Dr. Chen noted, "Dr. Moore only considered the Kaiser records documenting that Ms. Ceja had preexisting headaches, TMJ, spinal symptoms. Kaiser records documented that Ms. Ceja's symptoms were stable and only required occasional treatments. **After 6/24/15 event, Ms. Ceja's symptoms accelerated as noted that since 6/24/15 injury, she had to take off from work, consultation with many doctors, increase in her medications, and multiple surgeries.**" It was Dr. Chen's opinion that Dr. Moore did not discuss how the job requirements played a role in Ms. Ceja's cumulative trauma and injured body parts. He indicated Dr. Moore did not have a job duty description, and had he had it, ["he would have realized that Ms. Ceja's job required her to drive long distances to challenged students. The Kaiser records, dating from 2010, coincided with the years that Ms. Ceja worked at Morgan Hill USD." He noted that although applicant had injuries to her face, jaw, neck, back, and upper extremities prior to her employment with Morgan Hill Unified School District, they were not labor disabling nor were there records of impairment. **(Exhibit 4)**

Due to the conflicting reports and defendant's objection to Dr. Chen's reporting due to the conflict of interest, Steven Feinberg, M.D. was assigned as an Independent Medical Evaluator to opine on AOE/COE for the specific and cumulative trauma claims. On 3/28/2023, Dr. Feinberg examined the applicant, and summarized her extensive medical record and deposition transcript. Dr. Feinberg noted applicant stated she had pre-existing headaches and neck pain related to TMJ problems, but that there had been a worsening of symptoms, which she attributed to her repetitive job duties. **Dr. Feinberg discussed applicant's complaints and medical history and opined, "from a medical standpoint, it is probable that she brought to this June 2015 injury significant prior problems/disability with a history of cervical, lumbar and TMJ related issues. She never filed for work-related cumulative trauma and there is a single mention by the physical therapist in April 2012 about a several year history of increasing upper right neck pain and that she did significant typing as a school psychologist and that she used a laptop as she traveled to different schools."** Dr. Feinberg further noted, "While she clearly was symptomatic, and certainly may have been more symptomatic associated with work activities, she last worked in 2015 and the issue is whether her disability is in any way related to work-related causation to that particular employer. She sought medical care on a nonindustrial basis prior to 2015 and there has not been evidence to support work-related cumulative trauma up until that point." He further opined, "there is no

evidence on a medically probable basis to support long-lasting disability from the 6/24/2015 injury at work.” Dr. Feinberg concluded it is not medically probable that any of applicant’s current maladies and complaints are related to her employment at Morgan Hill Unified School District. **He opined that it is probable that work was stressful to applicant and possibly aggravated her underlying condition from time to time, but it is not medically probable that there was any contribution to her current disability from work-related causation. Finally, he concluded there is no basis for industrial causation and that 100% of applicant’s condition is nonindustrial. (Exhibit J)** On 7/06/2023, after reviewing some of the medical reports again, a letter from the applicant, and her deposition transcript, Dr. Feinberg noted his opinions were unchanged. **(Exhibit K)**

...

The medical record indicates applicant has a long and complex history of pre-existing complaints of migraines, jaw, neck, and upper extremity pain. She underwent jaw surgery with a plate inserted in her left sinus in 1996. **Notably, applicant was discharged from care the following day after the 6/24/2015 incident, and the medical record is devoid of any further complaints related to that incident.** Dr. Moore and Dr. Feinberg both reviewed and summarized applicant’s extensive medical record and opined that applicant’s condition is not industrial. **The undersigned found Dr. Chen’s reports not substantial medical evidence as there is no indication that Dr. Chen reviewed applicant’s extensive medical record. Further, due to the conflict of interest with applicant’s former counsel, the undersigned is unable to rely on Dr. Chen’s opinion.** Dr. Moore and Dr. Feinberg examined the applicant, reviewed her extensive medical record and deposition transcript, and concluded that applicant’s complaints are all pre-existing and not related to the 6/24/2015 incident nor to cumulative trauma.

(Report, pp. 2-9, bold added.)

Accordingly, we grant reconsideration in order to amend the WCJ’s decision pursuant to the parties’ stipulation that applicant did sustain a June 24, 2015 specific injury to the head and right upper extremity only. Otherwise, we will affirm the WCJ’s decision.

For the foregoing reasons,

IT IS ORDERED that applicant’s petition for reconsideration of the Findings and Order and Opinion on Decision issued by a workers’ compensation administrative law judge on December 16, 2024 is **GRANTED**.

IT IS FURTHER ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the Opinion on Decision issued by a workers' compensation administrative law judge on December 16, 2024 is **AFFIRMED** except that it is **AMENDED** as follows:

FINDINGS OF FACT

1. **ADJ11236772:** Pursuant to the parties' stipulation, applicant SANTINA CEJA, while employed on 6/24/2015 as a program specialist in Morgan Hill, California by Morgan Hill Unified School District, did sustain a specific injury arising out of and in the course of employment in ADJ11236772 to the head and right upper extremity only.

ADJ11236942: Applicant SANTINA CEJA, while employed during the period 8/1/2008 through 3/9/2018 as a program specialist in Morgan Hill, California by Morgan Hill Unified School District, did not sustain a cumulative injury arising out of and in the course of employment in ADJ11236942 to the head, neck, back, upper extremities and lower extremities.

...

5. Applicant did not sustain any temporary or permanent disability as a result of the specific injury to the head and right upper extremity in ADJ11236772. There is no need for future medical treatment for the specific injury to the head and right upper extremity in ADJ11236772.

ORDER

1. Pursuant to Findings of Fact 1 through 5 in ADJ11236942, it is ordered that applicant take nothing by reason of the application for cumulative injury in ADJ11236942 to the head, neck, back, upper extremities and lower extremities.
2. Pursuant to Findings of Fact 1 through 5 above in ADJ11236772, it is ordered that applicant shall not be awarded permanent disability or future medical treatment for the specific injury to the head and right upper extremity in ADJ11236772.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

/s/ JOSÉ H. RAZO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

April 4, 2025

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

**SANTINA CEJA, IN PRO PER
LAUGHLIN, FALBO, LEVY & MORESI**

AF/mc

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