WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

JAMES BRADY, *Applicant*

vs.

HAMPTON TEDDER ELECTRIC COMPANY, INCORPORATED; STARR INDEMNITY AND LIABILITY administered by SEDGWICK CLAIMS MANAGEMENT SERVICES; SWEET MOONSHINE, INCORPORATED dba WINE COUNTRY BALLOONS; NATIONAL LIABILITY AND FIRE INSURANCE COMPANY administered by BERKSHIRE HATHAWAY HOMESTATE COMPANIES, *Defendants*

Adjudication Numbers: ADJ18129956; ADJ18371631; ADJ19021958
Santa Rosa District Office

OPINION AND ORDER DENYING PETITION FOR RECONSIDERATION

Defendant, Hampton Tedder Electric Company Incorporated and Starr Indemnity and Liability (Hampton Tedder), seeks reconsideration of the Joint Findings and Award, Order (F&A) issued on December 3, 2025 by the workers' compensation administrative law judge (WCJ), which found in pertinent part that in ADJ18129956[1] applicant sustained injury arising out of and in the course of employment to the low back, bilateral shoulders and bilateral knees; Dr. Stoller's reporting is substantial medical evidence; jurisdiction in California is proper; and defendant has not met its burden to prove a statute of limitations defense.

Defendant Hampton Tedder contends that the reporting of panel Qualified Medical Evaluator (PQME), Adam J. Stoller, M.D., is not substantial evidence of injury, applicant's claim is time barred by the statute of limitations, and California does not have jurisdiction.

We did receive an Answer from applicant. The WCJ filed a Report and Recommendation (Report) on the Petition for Reconsideration recommending that we deny reconsideration.

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[1] In ADJ19021958, the WCJ found that applicant sustained injury to the left foot on September 15, 2021, while working at Wine Country Balloons. In ADJ1837163, applicant claimed injury to the back, bilateral upper extremities, bilateral knees, bilateral hands, and bilateral elbows from October 9, 2021 through October 9, 2022, while working at Wine Country Balloons. The findings in ADJ18371631 and ADJ19021958 are not challenged, and we do not disturb them.

We have considered the allegations of the Petition for Reconsideration and the Answer and the contents of the Report. Based on our review of the record and for the reasons stated in the WCJ's Report, which we adopt and incorporate, and for the reasons discussed below, we will deny reconsideration.

DISCUSSION

I.

Preliminarily, we note that former Labor Code[2] 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 January 12, 2026 and 60 days from the date of transmission is March 13, 2026. This decision was issued by or on March 13, 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

[2] All further references are to the Labor Code unless otherwise noted.

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 WCJ, the Report was served on January 12, 2026, and the case was transmitted to the Appeals Board on January 12, 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 January 12, 2026.

II.

In addition to the analysis set forth in the WCJ's Report, we observe the following.

The employee bears the burden of proving injury AOE/COE by a preponderance of the evidence. (*South Coast Framing v. Workers' Comp. Appeals Bd.* (*Clark*) (2015) 61 Cal.4th 291, 297-298, 302 [80 Cal.Comp.Cases 489]; Lab. Code, §§ 3600(a), 3202.5.) The Supreme Court of California has long held that an employee need only show that the "proof of industrial causation is reasonably probable, although not certain or 'convincing.'" (*McAllister v. Workmen's Comp. Appeals Bd.* (1968) 69 Cal.2d 408, 413 [33 Cal.Comp.Cases 660].) "That burden manifestly does not require the applicant to prove causation by scientific certainty." (*Rosas v. Workers' Comp. Appeals Bd.* (1993) 16 Cal.App.4th 1692, 1701 [58 Cal.Comp.Cases 313].)

Here, to find industrial injury AOE/COE to the low back, bilateral shoulders and bilateral knees, the WCJ relied on the medical evidence of global PQME, Adam J. Stoller, M.D., and applicant's credible testimony. (Report, at p. 3; Transcript of Proceedings (Transcript), September 23, 2025, at pp. 7:9-14; 12:23-24.) Defendant contends that the reporting of Dr. Stoller is conclusory, unsubstantial medical evidence of injury and that applicant's claim is time barred by the statute of limitations because they had no actual notice of applicant's injury.

To address defendant's contentions, we will consider section 3208.1, which defines specific and cumulative injuries and section 5412, which defines the date of injury for occupational diseases and cumulative injuries.

1. Causation under section 3208.1.

Section 3208.1 defines a "cumulative" injury as one "occurring as repetitive mentally or physically traumatic activities extending over a period of time, the combined effect of which causes any disability or need for medical treatment. The date of a cumulative injury shall be the date determined under Section 5412."

On May 24, 2024, Dr. Stoller conducted an initial evaluation of applicant and reported a history of present illness as follows:

> [He] worked as a lineman for Hampton Tedder for 20 years. During the course of his job, he did a lot of forceful pushing, pulling, lifting, and twisting. He first noticed right shoulder pain then left shoulder pain during the course of his job. He developed bilateral aching forearms, bilateral knees and low back pain.
>
> …
>
> He eventually stopped working at Hampton Tedder in 2017 because he was unable to do his job because of his persistent shoulder pain. Around the time he stopped working at Hampton Tedder or contemporaneous to that, he was told he needed bilateral reverse total shoulder replacement.

(Joint Exhibit 1, at pp. 1-2.)

In addition to the history of injury provided by applicant, Dr. Stoller reviewed and summarized the applicant's February 13, 2024, deposition testimony about his mechanism of injury to low back, bilateral shoulders and bilateral knees while working at Hampton Tedder as follows:

> … He stated that he hurt his lower back or mid-back after he had a big giant wheel drop. He elaborated that he was in a manhole, and one of their big pulling wheels used for pulling cable dropped on his back, fracturing his spine. … He attributed the elbow injury to a cranking hoist and doing other lineman work. … He stated that they had components for high voltage cable splices, which he had to grease and slide with his elbows, using a lot of pressure. … He attributed the knee injury to climbing poles and ladders while attending to emergencies and doing heavy-duty construction work. … He injured his shoulder by doing the line work over time. … Elaborating on the injuries that he had at Tedder, he stated that once, while working there, the ladder slipped from underneath him, and he had to reach up, grab a bar going across, and hang there. That was the first time he injured his right shoulder. That was approximately between 2004 and 2007. … He stated that he injured his shoulders due to the cranking and working it out. … As a lineman or foreman, he stated that the heaviest he would handle were the l0000-pound transformers with hoists, jacks, and blocks. By himself, be lifted the 90-pound bags of concrete or sometimes more, but then with the help of equipment. … As a part of his job, he also did testing of equipment and gear, replacing switchgear and transformers, removing and

replacing high voltage cables and 1000-foot runs, and changing poles. He pulled the cable from underground to overhead and did preventive maintenance. … He drove big blind trucks and bucket trucks. He would bounce in his seat and drive on smooth dirt roads. Going from one location to another took from ten minutes to even three to four hours. He used the computer to do inspections, tests, note readings, etc. … When he worked at Tedder, he suffered a rip in his shoulder. … The applicant stated that while working for Hampton Tedder, to get the solar plant he was at on the California side, he would drive there from Las Vegas. The drive took him an hour. He was on the night crew. So, he would work there from 6:00 P.M. to 6:00 A.M. He stated that those were 22-story towers where the elevators were broken as there was no power. The applicant would have to walk up the stairs every night. He stated that in doing that, he experienced extreme knee pain. He explained that all the mirrors shone on the wrong part of the towers and burnt a 40-foot section of communication cables, high-voltage cables, secondary cables, and signal cables. The applicant was dealing with the cables after the mirrors. The mirrors were moved automatically by the computers. … He stated that they had to cut it out, pull in the new ones, and splice it together. The cable came in tiny foam wires in bundles of 20. It could be 3 conductor, Number 2 wire, 15,000 volt, high voltage cables, or various others. He stated that the cable at the solar plant was heavy. A 4 AWG cable was a pound a foot. … He used hydraulic cable cutters for cutting the cable. He used machine cable cutters and also did it manually using bis hands. The sizes of the cutters varied. Some cutters were big, with a hydraulic pump attached to them, similar to the Jaws of Life used by firefighters. He stated that those were heavier and bulkier. He carried those up the stairs along with others in the crew. The applicant stated that he would only do two trips a night. Hey always planned their work so that, if they did not have something that day, they would plan to bring it up the next morning if they could. … The hand sheers were quiet, but the hydraulic ones were loud. He did not need to wear ear protection. He stated that as they were all construction workers, they were always shouting while talking to each other. He stated that during the four to five days he spent at the oil rig, he did testing and cleaning of high voltage gear with test equipment. It was somewhat like a car battery. … They used hand clamps and mechanical clamps. He tested them, wrote down the readings, and fixed if anything was wrong with them. They did minor repairs like changing out insulators or replacing wire. During the three days he spent at the solar plant in the desert, they had to dig up and replace a direct buried cable that had faulted. … They had to dig about four feet to reach it. The applicant stated that he did not have to do the digging, and that there were other workers for that. The applicant and his team would find the fault, cut it, replace it with a new cable, put two splices in, and bury it back in. He stated that for most jobs, it would be a conduit, which they could pull from one end and pull out from the other end. However, that cable was direct buried, and hence, they had to dig into it to find the fault.

(*Id*. at pp. 15-34, deposition page citations omitted.)

In addition to understanding the mechanism of injury, Dr. Stoller also took a complete history from applicant, reviewed his systems, reviewed and summarized medical treatment records, and conducted a physical examination of applicant. Dr. Stoller diagnosed applicant, in relevant part, with (1) bilateral end-stage shoulder osteoarthritis; (2) bilateral arm pain (3) low back pain; and (4) bilateral knee pain. (*Id*. at pp. 37-38.) Dr. Stoller then determined that on an industrial basis through June 30, 2017, applicant sustained injury to shoulders, forearms, low back and knees while employed at Hampton Tedder. (*Id*.) Applicant was not permanent and stationary, and additional medical treatment and diagnostic studies were necessary. (*Id*. at p. 39.) Lastly, Dr. Stoller made his medical determinations to a reasonable medical probability. (*Id*. at p. 41.)

On July 29, 2024, Dr. Stoller reviewed additional records, but did not change his opinion regarding causation of the June 30, 2017, cumulative injury. (Joint Exhibit 2, at p. 7.) Dr. Stoller agreed to consider left shoulder apportionment to a February 1, 2009, nonindustrial event after he had the opportunity to review a contemporaneously ordered/presumably completed left shoulder MRI and applicant's condition was permanent and stationary. (*Id*. at pp. 8-9.)

On October 21, 2024, Dr. Stoller reviewed additional records, but maintained his opinion regarding causation of the June 30, 2017, cumulative injury. (Joint Exhibit 3, at pp. 30-31.) While opining that applicant's work at Hampton Tedder was particularly stressful to applicant's shoulders due to prolonged periods of overhead work and repeatedly using tools forcefully, Dr. Stoller agreed to consider bilateral shoulders' permanent disability apportionment once applicant's condition was permanent and stationary. (*Id*.)

On December 5, 2024, Dr. Stoller was deposed. (Joint Exhibit 4.) At the start of his deposition, Dr. Stoller did not have any changes to his first three reports, Joint Exhibits 1-3. (*Id*. at p. 5:11-21.) At his deposition, Dr. Stoller maintained his opinion regarding causation of the June 30, 2017 cumulative injury. However, Dr. Stoller agreed to reconsider assigning causation and apportionment for applicant's shoulders and other body parts to his subsequent employment at Wine Country Ballons based on a worsening of applicant's condition while he worked there. (*Id*. at pp. 16:16-18:6.)

A final report from Dr. Stoller considering causation and apportionment to applicant's subsequent employment at Wine Country Balloons is currently pending.

It is well established that decisions by the Appeals Board must be supported by substantial evidence. (Lab. Code, §§ 5903, 5952(d); *Lamb v. Workmen's Comp. Appeals Bd.* (1974) 11 Cal.3d

274 [39 Cal.Comp.Cases 310]; *Garza v. Workmen's Comp. Appeals Bd.* (1970) 3 Cal.3d 312 [35 Cal.Comp.Cases 500]; *LeVesque v. Workmen's Comp. Appeals Bd.* (1970) 1 Cal.3d 627 [35 Cal.Comp.Cases 16].) To constitute substantial evidence "…a medical opinion must 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." (*Escobedo v. Marshalls* (2005) 70 Cal.Comp.Cases 604, 621 (Appeals Board en banc).) "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 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].)

Here, Dr. Stoller took adequate histories from applicant, conducted a physical examination of applicant and explained that forceful pushing, pulling, lifting, twisting, overhead work and repeatedly using tools forcefully caused injury to applicant while he worked at Hampton Tedder over the course of 20 years. Dr. Stoller issued his reports to a reasonable degree of medical probability and the reports are free from guess or incorrect legal theories. Accordingly, Dr. Stoller's May 24, 2024, report is substantial medical evidence of applicant's cumulative injury through June 30, 2017, at Hampton Tedder.

To determine causation, the WCJ also relied on applicant's credible trial testimony[3] about his injury through June 30, 2017, including:

> Q. And then I'm looking at another report dated December 30th, 2022 for follow-up for your stroke. In that report, it says you had an injury to your left shoulder five years ago.
>
> Do you know what that's reference to?
>
> A. Working at Tedder. I probably didn't explain to her that it was from repetitive work and stuff, but I also did injure my shoulder at Treasure Island.
>
> Q. And when did you come to the realization that you did injure your left shoulder due to repetitive motion at Tedder?
>
> A. For years, just pain every morning and having to take Excedrine [*sic*] just to get through my day.

[3] Applicant suffered a stroke on October 9, 2022, and has testified about memory issues since that medical event. (Transcript, September 23, 2025, at p. 43:24-25; Star Indemnity's Exhibit E, at p. 98:8-10.)

Q. Did you realize that at the time of your last day of work, or did that realization come later?

A. No, I realized it.

Q. Before?

A. Yeah.

Q. And did you ever report that to anyone at Tedder?

A. No. I take that back, though. I did report it to my boss at the time, Jim Brenton.

…

A. He was the superintendent, vice president. His son was in the manhole or involved when I fell.

Q. And when did you report that to him?

A. Probably later on that day.

…

Q. Do you have an approximate date or year?

A. 2006 or ’05, somewhere around there.

Q. And was this more of a specific injury?

A. It was.

…

Q. And in his August 1st, 2017 report he talks about you falling off the ladder holding the rung, to the right shoulder, back in 2011. Does that sound right?

A. That was different -- that was in Treasure Island, and that was a different shoulder.

Q. That was a specific injury, though; correct?

A. Yeah.

…

Q. There was some discussion with you and [defendant’s attorney] about specific versus cumulative trauma, and I want to go back to that. If you were to make a list of all the times you got hurt while working for Hampton Tedder, how big a list would it be?

A. It would be a big list.

Q . Okay. Would it be ten entries?

A. All the times that I got hurt?

Q. Yeah.

A. A hundred times.

Q. Okay. And would you include that ladder incident as one of those 100 times?

A. Yes.

Q. And there may have been another hundred events like that where you hurt your knees, hurt your shoulders, hurt your hands?

A. Not a particular ladder event but other events, you know, where I smashed my finger or steel in my eyes or, you know, twisted something or cut myself.

Q. That affected your shoulders?

A. I don't know. Depends.

Q. Okay.

A. The cumulative, you know, doing elbow stuff -- I can only remember two times when I hurt my shoulder, one time when I first worked in California and the second where I actually had an accident where I hurt my shoulder.

(Transcript, September 23, 2025, at pp. 37:1-38:7; 38:20-39:1; 53:19-54:19.)

Hence, the WCJ correctly relied upon the May 24, 2024, substantial medical evidence of Dr. Stoller and applicant's credible testimony about the nature of his cumulative injuries to find injury AOE/COE to his low back, bilateral shoulders and bilateral knees while working at Hampton Tedder. We observe that even though Dr. Stoller's latest reporting is still pending, the reporting and testimony of Dr. Stoller is substantial evidence to support the finding of cumulative injury as set forth in *Clark*, *supra*.

Next, we will consider applicant's legal date of cumulative injury.

2. Date of injury under section 5412.

Section 5412 states: "The date of injury in cases of…cumulative injuries is that date upon which the employee first suffered disability therefrom and either knew, or in the exercise of reasonable diligence should have known, that such disability was caused by his present or prior employment." Therefore, in cumulative injury cases, there is no "date of injury" until there is a concurrence of both disability and knowledge. (*Bassett-McGregor v. Workers' Comp. Appeals Bd.* (1988) 205 Cal. App. 3d 1102, 1110 [53 Cal.Comp.Cases 502].)

As used in section 5412, "disability" means either compensable temporary disability or permanent disability. (*Chavira v. Workers' Comp. Appeals Bd*. (1991) 235 Cal.App.3d 463 [56 Cal.Comp.Cases 631]; *State Comp. Ins. Fund v. Workers' Comp. Appeals Bd.* (*Rodarte*) (*2004*) 119 Cal.App.4th 998 [69 Cal.Comp.Cases 579].) Medical treatment alone is not "disability" for purposes of determining the date of a cumulative injury pursuant to section 5412, but it may be evidence of compensable permanent disability. (*Rodarte*, *supra*, 119 Cal.App.4th at p. 1005.) Likewise, modified work is not a sufficient basis for finding compensable temporary disability, but it may be indicative of a compensable permanent disability, especially if the worker is permanently precluded from returning to their usual and customary job duties. (*Id*.)

The existence of disability is a medical question beyond the bounds of ordinary knowledge, and, as such, will typically require medical evidence. (*City & County of San Francisco v. Industrial Acc. Com*. (*Murdock*) (1953) 117 Cal.App.2d 455 [18 Cal.Comp.Cases 103]; *Bstandig v. Workers' Comp. Appeals Bd*. (1977) 68 Cal.App.3d 988 [42 Cal.Comp.Cases 114].) Knowledge requires more than an uninformed belief. Because the existence of disability typically requires medical evidence, an "applicant will not be charged with knowledge that his disability is job related without medical advice to that effect unless the nature of the disability are such that applicant should have recognized the relationship between the known adverse factors involved in his employment and his disability." (*City of Fresno v. Workers' Comp. Appeals Bd.* (*Johnson*) (1985) 163 Cal.App.3d 467, 473 [50 Cal.Comp.Cases 53].)

At trial, answering questions posed by his attorney, applicant credibly testified about his knowledge of his cumulative injury through June 30, 2017, as follows:

> Q. Okay. At some point did you become aware that there is a thing called "cumulative trauma" in California workers' compensation?
>
> A. I've heard the word. I mean --
>
> Q. Okay. So at some point you came to me. Were you referred to me?
>
> A. Yes, by my social security lawyer.
>
> Q. Okay. And what did your social security lawyer tell you?
>
> A. Well, 'cause I had all this paperwork and stuff for all my conditions, and I had been turned down twice already for social security, I hired a lawyer the third time and I started telling him my whole story, and he goes, "Well, how come you never got workmans' [*sic*] compensation?" I was never offered it, so I told him

> and he goes, "Well, you need to get a lawyer for workman's comp." That's when I called you.
>
> …
>
> Q. Okay. And before that, had any doctor told you there was a workers' comp injury and you needed to file documentation?
>
> A. No, not that I can remember.

(Transcript, September 23, 2025, at pp. 32:25-33:15; 33:23-34:1.)

Applicant was alerted to knowledge of a potential industrial injury after he sought legal counsel related to his social security claim. However, we do not equate information about a potential industrial injury from legal counsel with medical evidence of injury.

Interestingly, defendant conducted discovery about applicant's knowledge of a potential cumulative trauma claim with Dr. Stoller. When defendant asked about applicant's date of knowledge, Dr. Stoller shared his observations about applicant, but correctly declined to speculate on the issue:

> [Question] 2. If you do find for CT injury of 2017, please provide comment as to when the applicant knew or should have known when he had a cumulative trauma injury as the date of knowledge is important.
>
> [Answer] Mr. Brady did not strike me as medically sophisticated enough to understand what a cumulative trauma injury is and how that would differ from any other type of injury, so I would not expect that he should have known anything given his background in the subject matter. CT injuries tend to be incremental, and as such are physiologically well compensated making it plausible that Mr. Brady did not know how much worse his shoulder was in 2017 than in it was in 2015 or 2016. As for when he knew he had a problem with his shoulder, any answer I would give would be complete speculation, which is not appropriate.

(Joint Exhibit 3, at p. 31.)

In their Petition, in response to the WCJ's determination that defendant was estopped from asserting the statute of limitations defense because they had notice of applicant's injury by July 10, 2017, defendant focused on three events that occurred during applicant's employment at Hampton Tedder through June 30, 2017, to explain why they did not have actual notice. First, in 2005 or 2006, applicant reported a left shoulder injury to Jim Brenton, superintendent, vice president, on the same day it occurred. (Transcript, September 23, 2025, at p. 37:17-38:13.) Second, in 2011, applicant injured his right shoulder. (*Id*. at p. 38:14-38:24.) Third, near the end

of his employment, applicant reported to Roger Cates that his shoulder pain was due to work but he did not offer applicant a claim form. (*Id*. at pp. 26:13-18; 40:23-41:7.) Then, Roger Cates wrote the July 10, 2017, termination letter. (*Id*. at p. 41:7; Exhibit 1.)

We note that defendant presented no evidence to rebut the applicant's credible testimony that he reported industrial shoulder pain to Roger Cates towards the end of his employment at Hampton Tedder. Further, we note that defendant presented no evidence to rebut the applicant's credible testimony that his first information about a possible cumulative trauma claim was from his social security attorney. Finally, we disagree with defendant that any left shoulder complaints in 2017 could be reasonably "referrable" to the 2005 or 2006 specific, left shoulder injury. (Petition, at p. 7.)

Even if we agreed with defendant that the three events of employment, left shoulder injury in 2005 or 2006, right shoulder injury in 2011, and report of shoulder pain in 2017 to Roger Cates, were not sufficient to provide "actual" notice of injury to defendant, by the same token then, *these events are also not sufficient to provide knowledge of injury to applicant*. As discussed above, an applicant's awareness of symptoms, medical treatment, missed work, or suspicions of industrial injury, without more, cannot meet the legal definition of "knowledge of injury." By presuming that applicant's knowledge is sufficient, but defendant's knowledge is not, defendant is engaged in a logical fallacy. We remind defendant that the Labor Code places the obligation to investigate a potential injury squarely on an employer. (Lab. Code, § 5402 ["knowledge of the assertion of a claim of injury sufficient to afford opportunity to the employer to make an investigation into the facts"].) An applicant's responsibility is to inform an employer, but once an applicant has done so, it becomes defendant's responsibility to inquire into whether there is an injury, including providing notice of potential eligibility for benefits and a claim form, and not applicant's. (Lab. Code, § 5401.) Any argument about the need for "actual" knowledge by the employer is simply incorrect.

Defendant has presented no substantial medical evidence of applicant's knowledge but for the May 24, 2024, report of Dr. Stoller. Consequently, per section 5412, applicant had knowledge of injury on May 24, 2024, and it is the legal date of applicant's cumulative injury at Hampton Tedder. Applicant filed an Application for Adjudication of Claim for this injury on August 21, 2023. Hence, the applicant's claim is not untimely or barred by the statute of limitations.

3. California jurisdiction to adjudicate applicant's claim of injury.

Finally, with respect to its jurisdictional argument, defendant focuses on applicant's last year of employment in order to claim that applicant spent more time in Nevada than California. In doing so, it conflates the notion of liability for an injury between multiple defendants with definition of the period of injurious exposure that caused applicant's injury [see Lab. Code, § 3208.1 [defining "cumulative injury" as "one occurring as repetitive mentally or physically traumatic activities extending over a period of time, the combined effect of which causes any disability or need for medical treatment"]).

Section 5500.5 sets forth the framework for determining liability when an applicant has had more than one employer. Specifically, subdivision (a) states that liability "shall be limited to those employers who employed the employee during a period of [one] year[] immediately preceding either the date of injury, as determined pursuant to Section 5412, or the last date on which the employee was employed in an occupation exposing him or her to the hazards of the occupational disease or cumulative injury, whichever occurs first."

Here, while we agree with the WCJ that California had jurisdiction to adjudicate applicant's claim of injury, we observe that the more proper analysis is to consider the entire period of hazardous exposure. However, no finding as to the period of hazardous exposure has been made here, and we do not disturb the finding as to jurisdiction. We also note that the jurisdictional restrictions for claims of injury by athletes set forth in section 3600.5(c) and (d) do not apply here, and any argument with respect to subdivisions (c) and (d) is inapposite.

Finally, on the day of trial, applicant's attorney requested that applicant's "bilateral upper extremities" be added to the issues for trial in ADJ18129956 as a claimed body part. The WCJ agreed, but the claim of injury to applicant's bilateral upper extremities is omitted from the Minutes of Hearing and Summary of Evidence and the F&A. (Transcript, September 23, 2025, at p. 13:7-15.) Thus, the issue of injury to applicant's bilateral upper extremities is undecided and is therefore deferred.

Accordingly, we deny the Petition for Reconsideration.

For the foregoing reasons,

IT IS ORDERED that the Petition for Reconsideration is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ CRAIG L. SNELLINGS, COMMISSIONER

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

/s/ JOSEPH V. CAPURRO, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

March 13, 2026

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

JAMES BRADY
MEECHAN, ROSENTHAL & KARPILOW
BRADFORD & BARTHEL
HANNA, BROPHY, MACLEAN, MCALEER & JENSEN

SL/abs

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

REPORT AND RECOMMENDATION
ON PETITION FOR RECONSIDERATION AND NOTICE OF TRANSMITTAL

I

INTRODUCTION

Defendant Hampton Tedder Electric Co. Inc. and its insurer Starr Indemnity and Liability Co., administered by Sedgwick, by and through its counsel, Bradford Barthel, filed a timely and verified Petition for Reconsideration on December 29, 2025 challenging the Findings and Award dated December 3, 2025.

Three cases with two different employers proceeded to Trial on September 23, 2025. The issues included AOE/COE, statute of limitations, and jurisdiction. The cases are as follows:

1. A specific injury to the left foot on September 15, 2021 (ADJ19021958) while working at Wine Country Balloons.
2. A CT to the back, bilateral upper extremities, bilateral knees, bilateral hands, and bilateral elbows from October 9, 2021 through October 9, 2022 (ADJ18371631) while working at Wine Country Balloons.
3. A CT to the low back, bilateral shoulders and bilateral knees from June 30, 2016 through June 30, 2017 (ADJ18129956) while working at Hampton Tedder Electric Company. This is the only case in which reconsideration was filed.

In the Findings & Award (F&A), the undersigned WCJ found the following:

1. For ADJ19021958, the applicant sustained injury AOE/COE to the left foot and is entitled to future medical care for this injury. Defendant did not meet its burden to prove a statute of limitations defense.
2. For ADJ18371631, the issue of causation for all body parts was deferred with WCAB jurisdiction reserved. Further clarification from QME Dr. Stoller is required to meet the substantial medical evidence requirement for this date of injury.
3. For ADJ18129956, the applicant sustained injury AOE/COE to the low back, bilateral shoulders and bilateral knees. Defendant did not meet its burden to prove a statute of limitations defense, and jurisdiction was proper in California.

Petitioner files for reconsideration in case number ADJ18129956 only (CT June 30, 2016 through June 30, 2017) and reasserts its Trial arguments. Petitioner argues that Applicant's claim is barred by the statute of limitations, that jurisdiction in California is not proper and that Dr. Stoller's reporting is not substantial medical evidence regarding causation.

II

FACTS

James Brady, age 51 on the date of injury, while employed during the cumulative trauma period from June 30, 2016 through June 30, 2017, as a wireman/cable splicer, at Montclair, California, by Hampton Tedder Electric Company, sustained injury arising out of and in the course of employment to the low back, bilateral shoulders and bilateral knees (ADJ18129956). At the time of injury, the employer's workers' compensation carrier was Starr Indemnity and Liability Company, administered by Sedgwick (hereinafter "Defendant/Petitioner").

At the time of Trial, the case was allegedly denied by Defendant/Petitioner, although the denial letter was not submitted into evidence. The undersigned WCJ found injury AOE/COE to all body parts based on the QME reporting and testimony of Dr. Stoller, the testimony of the applicant, and all evidence submitted at Trial. The undersigned WCJ also found that the 2016-2017 claim was not barred by the statute of limitations, and that jurisdiction was proper in California. It is from this F&A that Petitioner seeks reconsideration.

III

DISCUSSION

a. APPLICANT'S CLAIM IS NOT BARRED BY THE STATUTE OF LIMITATIONS

The statute of limitations is an affirmative defense. (*Labor Code section 5409*.) The employer has the burden to establish either that written notice was given to the employee or that the employee had actual notice of his workers' compensation rights. (*Sidders v. WCAB (Moore)* (1988) 53 CCC 445, 452; See also *Labor Code sec. 138.3* and *5402*.) If the employer cannot prove that it provided an employee with notice of workers' compensation rights and procedures, it may not rely on the affirmative defense of the statute of limitations to defeat an employee's claim. *(R. W. Colgate, dba California Tile Co. v. WCAB (Sanchez)* (2013) 78 CCC 266 (writ denied).)

The employer bears the burden of proving actual knowledge. (*Kaiser Foundation Hospitals, Permanente Medical Group v. WCAB (Martin)* (1985) 50 CCC 411, 41[2].) Actual knowledge is knowledge given directly to, or received personally by, a party. (*CIGA v. WCAB (Carls)* (2008) 73 CCC 771, 779.) Constructive knowledge (awareness the employee *should have* possessed) is not sufficient. (*Id.*)

For the 2016-2017 CT claim, an Application for Adjudication of Claim was filed on August 21, 2023, indisputably beyond the one-year statute of limitations requirement of Labor Code section 5405. However, Defendant offered no exhibits to confirm that applicant's case is actually denied. No denial letter or *Reynolds* letter was submitted into evidence. As such, there is no written evidence that the claim was denied by Defendant. Defendant/Petitioner asserts that the parties stipulated to the denial which is evident from the case proceeding to Trial on AOE/COE. However, even if this is true, the employer had knowledge of Applicant's injury in 2017, which overcomes the statute of limitations defense.

Petitioner asserts that the employer did not have actual knowledge that the applicant sustained a work-related injury to his shoulder. *Petition pp. 5-6.* However, the letter authored by Roger Cates, Vice President of Hampton Tedder, was dated July 10, 2017, and specifically mentions applicant's shoulder injury. (Appl. Exh. 1.) Mr. Cates goes on to write that Applicant cannot do his job because it "required a high level of physical activity…while dealing with large/heavy cabling." (Id.) As a result, it appears the employer knew applicant's shoulder was preventing him from performing his job duties.

Defendant asserts that the letter from Roger Cates only acknowledges that applicant was having shoulder pain, not that it was work-related. *Petition pp. 5-6.* However, Mr. Cates' letter is a termination letter acknowledging that Applicant's work at Hampton Tedder contributed to his shoulder pain. So much so that it resulted in Applicant's termination from Hampton Tedder. Petitioner even quotes Mr. Cates' letter stating, "the loss of focus *caused by the pain* he is having has [caused him to] become ineffective and a liability to his jobs and personnel working with him." (Italics added.) *Petition, p.7, lines 24-28.* The undersigned WCJ respectfully asserts that this is actual knowledge of injury, and as such, the employer has not met the requirements of a statute of limitations defense.

b. <u>JURISIDICTION IN CALIFORNIA IS PROPER</u>

Petitioner asserts that jurisdiction should be in Nevada, not California, even though the applicant worked in California during the cumulative trauma period at issue. Petitioner likens the applicant's case to that of professional athletes; however, none of the case law cited by Petitioner is binding, and the applicant is not a professional athlete. Petitioner even acknowledges that the case and statutory law they are citing "applies specifically to professional athletes." *Petition, p. 9, lines 14-18.* As such, the undersigned WCJ does not find Petitioner's argument to be persuasive.

Petitioner appears to be arguing that the threshold for jurisdiction in California should be that the applicant worked at least 20% of his time in California. *Petition, p. 9, lines 14-18.* However, this is not binding law. Petitioner acknowledges that, "there is no bright line about how long an out-of-state employee must have worked in California. Each claim must be assessed individually. (*Byars v. Workers' Comp. Appeals Bd.* (2015) 81 Cal.Comp.Cases 64 (writ denied))." *Petition, p. 9, lines 11-13.*

The WCAB has jurisdiction over a worker employed in another state who is injured while working in California. (*Dailey v. Dallas Carriers Corp.* (1996) 61 CCC 216, 220.) In addition, the appeals board has jurisdiction over injuries occurring in other states in certain instances. For example, a state may exercise jurisdiction over an injury sustained in another state if it has a sufficient interest. (*Crider v. Zurich Insurance Co.* (1965) 380 U.S. 39.)

The Labor Code gives the appeals board jurisdiction over claims for out-of-state injuries when either (1) the contract for hire was made in California or (2) the out-of-state injured worker is regularly employed in California. Specifically, Labor Code sec. 5305 provides the appeals board with "jurisdiction over all controversies arising out of injuries suffered outside the territorial limits of this state in those cases where the injured employee is a resident of this state at the time of the injury and the contract of hire was made in this state."

In the case at hand, applicant's injury from June 30, 2016 through June 30, 2017 (ADJ18129956) occurred in California. The employer, Hampton Tedder Electric Company, was based out of Montclair, California. When he started the job, the applicant lived in Riverside, California. Although the applicant also worked in Las Vegas, Nevada, he was assigned to work at a substation in California and at three cellular towers on the California/Nevada border. (MOH/SOE, p. 7, lines 7-13.)

Moreover, Christine Tedder, the President of Hampton Tedder, testified that the company was incorporated in California, headquartered in California, and licensed to operate in California, Nevada, and Arizona. (MOH/SOE, p. 10, lines 28-31.)

Lastly, Ms. Tedder testified that the applicant worked 306 hours in California (12% of the time). (Id. at lines 20, 39-40.) The fact that the applicant may have worked more hours in Nevada in 2016 and 2017 does not negate the fact that he also worked in California that year. And, his employment contract was initiated in California. As such, jurisdiction in California is appropriate.

c. DR. STOLLER'S REPORTING CONSTITUTES SUBSTANTIAL MEDICAL EVIDENCE

Petitioner asserts that Dr. Stoller's reporting is not substantial medical evidence. *Petition, p. 10.* Specifically, Petitioner asserts that Dr. Stoller conflates causation of injury with causation of disability. *Petition, p. 12, line 7.* However, the undersigned WCJ disagrees.

Dr. Stoller finds causation to the bilateral shoulders, forearm pain, back pain and knee pain due to the CT to 2017 while working at Hampton Tedder. (Exh. J1, p.38.) He affirms causation in his supplemental report. (Exh. J2, p. 8.) And, he again confirmed the CT to 2017 to the bilateral shoulders in his most recent report. (Exh. J3, pp. 30-31.) Dr. Stoller reviewed all medical reports and diagnostics. Petitioner even agrees that Dr. Stoller reviewed "multiple MRI and x-ray reports." *Petition, p. 12, line 20.*

Dr. Stoller testified in deposition that the majority of Applicant's injury to his shoulders and low back was due to his work at Hampton Tedder, and this was based on his medical expertise. (Exh. J4, p. 12, line 18 thru p. 13, line 1.) The undersigned WCJ reaffirms that Dr. Stoller's reporting rises to the level of substantial medical evidence and thoroughly discusses the "how and why" of causation. Although Petitioner does not like Dr. Stoller's conclusions, Dr. Stoller is the medical expert, not Petitioner.

IV

RECOMMENDATION

It is respectfully recommended that the Petition for Reconsideration be denied.

NOTICE OF TRANSMISSION

Pursuant to Labor Code section 5909, the parties and the appeals board are hereby notified that this matter has been transmitted to the appeals board on date set out below.

Dated: January 12, 2026

Respectfully submitted,

Heidi K. Hengel
WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE