

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

MITCHELL THOMAS, *Applicant*

vs.

**CALIFORNIA DEPARTMENT OF FORESTRY, legally uninsured, administered by
STATE COMPENSATION INSURANCE FUND, *Defendant***

**Adjudication Number: ADJ17238555
Salinas District Office**

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

Applicant seeks reconsideration of the Findings of Fact, Award & Orders (FA&O) issued on March 20, 2026. In the FA&O, the workers' compensation administrative law judge (WCJ) found that applicant sustained a cumulative injury arising out of and in the course of employment to his cervical spine, lumbar spine, bilateral shoulders, heart, scarring, and hearing loss while employed as a firefighter from January 1, 2002 to December 31, 2022; and that applicant sustained 73% permanent disability.

Applicant contends that the reporting of Panel Qualified Medical Evaluators (PQMEs) Robert Weber, M.D., and Dinesh Sharma, M.D., constitutes substantial medical evidence to rebut the Combined Values Chart (CVC) of the Permanent Disability Rating Schedule (PDRS) and justify the addition of impairments under *Vigil v. County of Kern* (2024) 89 Cal.Comp.Cases 686 (Appeals Board en banc) (*Vigil*) because the PQMEs properly demonstrated a lack of overlap in the activities of daily living (ADLs) affected by the cardiovascular, musculoskeletal, and skin impairments. Applicant further contends that his injury caused 100% permanent disability after addition of the permanent disability impairments for these body systems.

Defendant filed an Answer to the Petition for Reconsideration (Answer), arguing that the WCJ correctly determined the PQME opinions were conclusory, contained contradictory analysis regarding ADL overlap, and failed to adequately explain any synergistic effect.

The WCJ filed a Report and Recommendation on Petition for Reconsideration (Report) recommending that we deny reconsideration.

We have considered the Petition for Reconsideration, the Answer, and the contents of the WCJ's Report with respect thereto. Based on our review of the record, and for the reasons discussed below, we will grant reconsideration, rescind the WCJ's decision and substitute a new decision that corrects the clerical error as to the date of injury and defers the issues of permanent disability and attorney's fees. We otherwise make no other substantive changes to the decision.

BACKGROUND

The parties stipulated that applicant, while employed as a firefighter, sustained industrial injury during the period from January 10, 2002 to December 31, 2020 to his cervical spine, lumbar spine, bilateral shoulders, heart, scarring, and hearing loss. (Minutes of Hearing (MOH), 02/23/2026, 22:5-10.)

The parties jointly submitted into evidence the PQME reports of Dinish Sharma, M.D. (Joint Exs. J1-J4), Robert Weber, M.D. (Joint Exs. J5-J12), and Steven Burren, M.D. (Joint Exs. J13-14.)

The parties stipulated to the following permanent disability rating strings:

CORONARY ARTERY DISEASE:

03.02.00.00-20-28-490I-36-40

LEFT SHOULDER (RANGE OF MOTION):

16.02.01.00-9-13-490I-18-20

CERVICAL SPINE (DRE)

15.01.01.00-8-11-490I-16-18

LUMBAR SPINE (DRE):

15.03.01.00-8-11-490I-16-18

SCARS AND SKIN GRAFTS:

08.02.00.00-6-8-490J-14-16

(MOH, 02/23/2026, 2:38-47 to 3:1-4.)

The primary issue at trial on February 23, 2026 was whether to aggregate the permanent disability rating strings based on addition per *Vigil* or by the CVC. (MOH, 02/23/2026, 3:16-18.)

In his report dated May 20, 2023, PQME Dr. Sharma, after evaluating applicant in the field of physiatry, documented objective clinical findings including decreased grip strength in the left upper extremity, with 65 to 72 pounds and 82 to 85 pounds on the right, and restricted range of motion across the cervical spine and left shoulder. (Joint Ex. J1, p. 7.) PQME Dr. Sharma related applicant's orthopedic disabilities directly to his employment as a fire captain, noting the occupational demands of extraordinary strenuous activities, climbing, twisting, bending, and lifting heavy equipment such as 80-pound hoses, 120-pound ladders, and 250-pound rescue baskets over his career. (*Id.* at pp. 5-6, 8.) PQME Dr. Sharma documented initial difficulties with ADLs, specifically noting that applicant has trouble with self-care, shaving, showering, reaching behind his back, climbing stairs, bending, and lifting. (*Id.* at p. 5.)

In his reevaluation report dated August 9, 2024, PQME Dr. Sharma declared applicant permanent and stationary, recording objective clinical findings of limited spinal mobility, including lumbar flexion restricted to 45° and cervical flexion to 50°, alongside restricted left shoulder abduction to 110° and documented muscle atrophy via asymmetric girth measurements. (Joint Ex. J2, p. 6.) PQME Dr. Sharma assessed 8% whole person impairment (WPI) for the lumbar spine, 8% WPI for the cervical spine, 6% WPI for the left shoulder, and 3% WPI for pain add-on. (*Id.* at pp. 7-8.) He recorded applicant's continuing difficulties with self-care, reaching, climbing stairs, bending, and lifting as well as left arm weakness, loss of full mobility with the left shoulder and difficulty sleeping. (*Id.* at p. 5.) PQME Dr. Sharma confirmed industrial causation without apportionment, opining that the orthopedic impairments resulted directly from the prolonged duration of cumulative trauma exposure sustained during applicant's firefighting employment. (*Id.* at pp. 7-8.)

In his reevaluation report dated May 27, 2025, PQME Dr. Sharma confirmed that the prior permanent impairment ratings remain unchanged, citing ongoing objective clinical findings of paraspinal tenderness, restricted lumbar flexion to 40°, restricted cervical flexion to 50°, and diminished light touch sensation in the median innervated digits. (Joint Ex. J3, pp. 7-8.) He reiterates applicant's ongoing functional limitations in his ADLs. (*Id.* at p. 7.)

In his supplemental report dated October 17, 2025, PQME Dr. Sharma directly addresses the ADLs to evaluate potential overlap between applicant's industrially related orthopedic disabilities and the cardiovascular impairments assessed by PQME Dr. Webber. (Joint Ex. J4, pp. 1-2.) PQME Dr. Sharma identified that the musculoskeletal impairments uniquely restrict structural mobility, such as reaching, lifting, carrying, bending, and spinal rotation, stemming from the physical

toll of his firefighting duties. Applying the standard from *Vigil*, he cautions against double counting but determines the functional restrictions are “complementary but independent.” The orthopedic conditions limit structural movements while the cardiac condition limits physiologic endurance and exertion. Finding that the mechanisms do not substantially overlap, he concluded the limitations are synergistic and not duplicative, justifying the addition of the impairments to reflect accurately the true overall disability. (*Id.* at p. 2.)

In his report dated October 23, 2023, PQME Dr. Weber, after evaluating applicant in the field of internal medicine, recorded that applicant last worked due to medical leave primarily related to orthopedic reasons. Applicant provided a subjective history of exertional chest tightness and shortness of breath during training hikes. (Joint Ex. J5, p. 2.) PQME Dr. Weber diagnosed hyperlipidemia and obesity as well as possible hypertension and coronary artery disease. (*Id.* at p. 5.)

In his supplemental report dated March 21, 2024, PQME Dr. Weber reviewed medical records documenting objective clinical findings from an April 18, 2023 exercise treadmill test, which demonstrated ischemic ST changes and moderate chest discomfort. He noted a chest X-ray revealing a non-specific finding of lung scarring. (Joint Ex. J6, p. 2.)

In his supplemental report dated August 20, 2024, he documented updated objective clinical findings from an April 23, 2024 cardiac catheterization revealing three-vessel coronary artery disease, including complete occlusion of the circumflex artery. He noted these findings necessitated a four-vessel coronary artery bypass graft surgery on May 14, 2024. He confirmed industrial causation for the heart condition without apportionment, attributing it to applicant’s over 20-year firefighting career pursuant to the Labor Code section 3212.2¹ heart trouble presumption. (Joint Ex. J7, p. 2.)

In his supplemental reports dated November 4, 2024 and February 4, 2025, PQME Dr. Weber explained the clinical mechanics of the cardiovascular disability, stating that the coronary artery disease objectively limits oxygen-carrying blood to the left ventricular myocardium. (Joint Ex. J8, p. 2.) This structural limitation diminishes contractility and pumping efficiency, placing the heart in a troubled state. (Joint Ex. J9, p. 2.)

In his reevaluation report dated July 23, 2025, he declared applicant permanent and stationary as of September 27, 2024. (Joint Ex. J10, p. 8.) PQME Dr. Weber determined objective clinical findings of a small apical scar on a myocardial perfusion test and assessed 20% WPI for Class 2

¹ Unless otherwise stated, all further statutory references are to the Labor Code.

coronary artery disease alongside 6% WPI for surgical scars. (*Id.* at pp. 4, 8.) Reviewing the orthopedic disabilities, PQME Dr. Weber documented PQME Dr. Sharma's August 9, 2024 finding that applicant's orthopedic impairments are 100% industrially related to cumulative trauma from his firefighting employment. (*Id.* at p. 5.) Addressing the ADLs, PQME Dr. Weber explicitly concludes that it is readily evident there is no overlap between the cardiovascular, skin, and orthopedic impairments in how they affect applicant's ADLs. Consequently, he opined that utilizing the standard CVC method would inappropriately reduce the overall impairment, and adding the impairments leads to a more accurate result. (*Id.* at p. 9.)

In his supplemental report dated November 19, 2025, he specifically evaluated the multiple impairments under the *Vigil* framework. He explicitly confirmed that the cardiological impairment and its impact on ADLs have no overlap with the skin and scarring impairment on ADLs, which similarly has no overlap with the orthopedic impairment's impact on ADLs. (Joint Ex. J11, p. 1.) He concluded that, because the cardiovascular system, skeletal system, and skin involve distinct organs with synergistic impairments and absolutely no overlapping functional restrictions, the criteria of *Vigil* is fulfilled, mandating that the impairments be added rather than compressed via the CVC. (*Id.* at p. 2.)

In his report dated September 27, 2023, PQME Dr. Burres, after evaluating applicant in the field of otolaryngology, documented a history of occupational noise exposure from heavy equipment and fire engines during a 20-year career as a firefighter. (Joint Ex. J13, p. 2.) Objective clinical findings from a screening audiogram demonstrated mild to moderate high-frequency hearing loss, although PQME Dr. Burres deferred a final impairment rating pending a formal ANSI standard audiogram. (*Id.* at pp. 7, 16.) Finally, he recorded a Tinnitus Handicap Inventory score of 10/100 indicating a mild impact on applicant's ADLs. (*Id.* at p. 7.)

In his supplemental report dated August 2, 2024, PQME Dr. Burres reviewed applicant's updated formal audiometry testing to finalize impairment factors. PQME Dr. Burres recorded objective clinical findings from the March 18, 2024 audiogram, utilizing pure tone thresholds and speech discrimination scores to calculate a 0% WPI for monaural and binaural hearing loss. (Joint Ex. J14, pp. 3-4.) In reevaluating applicant's tinnitus, he confirmed the THI score of 10/100 representing a minimal impact on ADLs, yielding 0% WPI for tinnitus but that this hearing loss restricted applicant from any work environments that may involve excess noise exposure to the best extent feasible. (*Id.* at p. 5.)

In the FA&O, the WCJ awarded applicant 73% permanent disability. In the Opinion on Decision, the WCJ explained that she applied the CVC rather than adding the impairments. PQME Dr. Weber and PQME Dr. Sharma failed to rebut successfully the CVC under the *Vigil* standard because neither physician provided substantial evidence that applicant's overlapping impairments synergistically amplified the impact on his ADLs. PQME Dr. Weber offered merely conclusory statements, asserting without detailed analysis that the cardiovascular and orthopedic systems inherently cause different ADL deficits. Conversely, while PQME Dr. Sharma accurately identified overlapping ADL limitations, specifically noting that the lumbar spine overlaps with the cervical spine and shoulder regarding lifting and carrying, and overlaps with the cardiac condition regarding walking and standing tolerance, he failed to adequately explain how these overlapping restrictions interact. His conclusion that the restrictions were "synergistic" was legally insufficient because, under *Vigil*, a physician must explicitly disclose the underlying basis for their conclusion and detail exactly how and why the synergism increases or amplifies the impact on the overlapping impairments, which both doctors failed to do. (Opinion on Decision, pp. 5-6.)

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

DISCUSSION

I.

Former 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, the Legislature amended section 5909 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 Case Events, the district office transmitted this case to the Appeals Board on April 22, 2026, and 60 days from the date of transmission is June 16, 2026. This decision issues on or before June 16, 2026, so that we have timely acted on the petition as required by section 5909(a).

Here, according to the proof of service for the Report by the WCJ, the Report was served on April 22, 2026, and the case was transmitted to the Appeals Board on April 22, 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 April 22, 2026.

II.

Permanent disability refers to the lasting, irreversible effects of an injury. It includes conditions that impair earning capacity, limit the normal use of a body part, or create a competitive disadvantage in the labor market. Permanent disability payments compensate workers for both physical loss and the reduction, partial or total, of their future earning potential. (*Brodie v. Workers’ Comp. Appeals Bd.* (2007) 40 Cal.4th 1313, 1320 [72 Cal.Comp.Cases 565].)

In *Department of Corrections and Rehabilitation v. Workers’ Comp. Appeals Bd. (Fitzpatrick)* (2018) 27 Cal.App.5th 607 [83 Cal.Comp.Cases 1680], the Court concluded that impairments “are generally combined” using the CVC, but the “scheduled rating [under the CVC] is not absolute” and other methodologies may be used to calculate permanent disability. (*Id.* at pp. 613-614.)

For example, in *Kite*, the Appeals Board concluded that impairments resulting from a cumulative injury to the bilateral hips can be added together where substantial medical evidence supports a physician’s opinion that adding impairments will result in a more accurate rating of the level of disability than the rating that results from using the CVC. (See *De La Cerda v. Martin Selko & Co.* (2017) 83 Cal.Comp.Cases 567 (writ denied) [requires following a physician’s opinion as to the most accurate rating method if they provide a reasonably articulated medical basis for doing so and does not require use of the term “synergistic”].)

In *Vigil*, the Appeals Board held that an injured employee may rebut the CVC under the PDRS and add impairments upon establishing the impact of each impairment on ADLs. To do so, the employee must demonstrate either that the rated body parts affect separate and distinct ADLs with no overlap, or that any overlap in the affected ADLs results in an increased or amplified overall functional impact. The Appeals Board explained that medical expertise is required:

In determining whether the application of the CVC table has been rebutted in a case, an applicant must present evidence explaining what impact applicant's impairments have had upon their ADLs. Where the medical evidence demonstrates that the impact upon the ADLs overlaps, without more, an applicant has not rebutted the CVC table. Where the *medical evidence* demonstrates that there is effectively an absence of overlap, the CVC table is rebutted, and it need not be used.

(*Vigil, supra*, 89 Cal.Comp.Cases at p. 692, italics added.)

The law requires the Appeals Board to base its decisions on 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 state its conclusions in terms of reasonable probability, avoid speculation, rely on pertinent facts and an adequate examination and history, and explain the reasoning supporting its conclusions. (*Escobedo v. Marshalls* (2005) 70 Cal.Comp.Cases 604, 621 (Appeals Board en banc).) Medical reports do not constitute substantial evidence when they contain known errors or rely on facts that are no longer germane, inadequate medical histories or examinations, or incorrect legal theories. Likewise, a medical opinion cannot support the Board's findings if it rests on surmise, speculation, conjecture, or guesswork. (*Hegglin v. Workmen's Comp. Appeals Bd.* (1971) 4 Cal.3d 162, 169 [36 Cal.Comp.Cases 93].)

In evaluating applicant's internal medicine and cardiovascular impairments, PQME Dr. Weber assessed permanent disability for coronary artery disease and surgical scars but failed to provide the detailed functional analysis required by *Vigil*. He explicitly concluded that the cardiological impairment and its impact on applicant's ADLs do not overlap with the functional impacts of the surgical scars or the orthopedic impairments. However, he based this conclusion entirely on the generalized premise that the cardiovascular and skeletal systems perform distinct bodily functions, rather than analyzing the specific daily activities applicant can or cannot perform. By substituting broad physiological principles for individualized functional assessment,

PQME Dr. Weber offered a strictly conclusory opinion that failed to substantiate exactly why the cardiovascular endurance limitations do not overlap with the structural mobility deficits caused by the orthopedic injuries.

Similarly, PQME Dr. Sharma failed to provide substantial medical evidence justifying the addition of applicant's orthopedic impairments. PQME Dr. Sharma correctly recognized and documented overlapping limitations, noting that the lumbar spine, cervical spine, and left shoulder all mutually restrict applicant's ability to lift and carry. Furthermore, PQME Dr. Sharma acknowledged that the orthopedic impairments overlap with the cardiovascular condition regarding applicant's walking and standing tolerance. Despite identifying these overlapping functional deficits, he summarily concluded that the restrictions are "synergistic" and "complementary but independent" without detailing the clinical mechanics of this interaction. He failed to explain how the interaction between the structural limitations of the spine and shoulder and the physiological exhaustion of the heart disease amplifies applicant's overall disability beyond the combined rating. This contradictory reasoning, acknowledging overlap while simultaneously failing to analyze the amplification of that overlap, renders PQME Dr. Sharma's opinion legally insufficient under *Vigil*.

"[I]n order to ensure reliance on substantial evidence, and a complete adjudication of the issues consistent with due process," the WCJ and the Appeals Board both have a duty to develop the record where there is an absence of, or insufficient evidence to determine the issues raised for trial. (*Tyler v. Workers' Comp. Appeals Bd.* (1997) 56 Cal. App.4th 389, 393-395 [62 Cal.Comp.Cases 924] (*Tyler*); *McClune v. Workers' Comp. Appeals Bd.* (1998) 62 Cal.App.4th 1117, 1121-1122 [63 Cal.Comp.Cases 261]; see Lab. Code, §§ 5701 and 5906; *McDuffie v. Los Angeles County Metropolitan Transit Authority* (2001) 67 Cal.Comp.Cases 138, 139 (Appeals Board en banc).) Indeed, the Appeals Board has a constitutional mandate to "ensure substantial justice in all cases," and is therefore "clearly permitted" to admit evidence even after the discovery cut-off under section 5502(d)(3). (*Kuykendall v. Workers' Comp. Appeals Bd.* (2000) 79 Cal.App.4th 396, 403-405 [65 Cal.Comp.Cases 264].) "[A]llowing full development of the evidentiary record to enable a complete adjudication of the issues is consistent with due process in connection with workers' compensation claims" and militates in favor of our presuming the continued vitality of sections 5701 and 5906, absent a clear legislative intention to the contrary. (*Tyler, supra*, 56 Cal.App.4th at p. 394.) An adequately developed record affords all parties due process of law and further provides for meaningful review by the Appeals Board of a WCJ's decision. (*Evans v.*

Workers' Comp. Appeals Bd. (1968) 68 Cal.2d 753, 755 [33 Cal.Comp.Cases 350]; *Hernandez v. Staff Leasing* (2011) 76 Cal.Comp.Cases 343, 346-347 (Appeals Board significant panel decision.)

Pursuant to sections 5701 and 5906, a WCJ or the Appeals Board may not leave undeveloped issues that, through the exercise of its specialized knowledge, recognizes as requiring further evidentiary development. (*Kuykendall, supra*, 79 Cal.App.4th at p. 404.)

Because PQME Dr. Weber and PQME Dr. Sharma both failed to provide a legally sufficient, non-conclusory analysis of applicant's overlapping or non-overlapping ADLs, the current medical record cannot support a determination on whether to apply the CVC or add the impairments. Therefore, development of the medical record is required to obtain supplemental reporting from the evaluating physicians that specifically addresses the *Vigil* criteria with well-reasoned clinical explanations.

Turning to applicant's injury in the form of hearing loss, the parties stipulated that applicant's injury in the form of hearing loss caused 0% permanent disability.

As discussed above with respect to *Vigil*, the scheduled rating is rebuttable. (See *Milpitas Unified School Dist. v. Workers' Comp. Appeals Bd. (Almaraz-Guzman III)* (2010) 187 Cal.App.4th 808, 852-853 [75 Cal.Comp.Cases 837].) The WPI portion of the scheduled rating may also be rebutted by showing that "a different chapter, table, or method of assessing impairment of the AMA Guides more accurately reflects the injured employee's impairment than the chapter, table, or method used by the physician being challenged." (*Almaraz v. Environmental Recovery Services/Guzman v. Milpitas Unified School Dist. (Almaraz-Guzman II)* (2009) 74 Cal.Comp.Cases 1084, 1106 (Appeals Board en banc).) The evaluating physician may utilize the chapter, table or method in the AMA Guides "that most accurately reflects the injured employee's impairment"; the physician's "opinion must constitute substantial evidence upon which the WCAB may properly rely, including setting forth the reasoning behind the assessment." (*Almaraz-Guzman II, supra*, at p. 1104.) Hence, an opinion by a physician may be substantial evidence as to the application of *Almaraz-Guzman* and rebuttal of the rating so long as it is reasonably probable. (See *McAllister v. Workmen's Comp. Appeals Bd.* (1968) 69 Cal.2d 408, 413 [33 Cal.Comp.Cases 660]; *Rosas v. Workers' Comp. Appeals Bd.* (1993) 16 Cal.App.4th 1692, 1701 [58 Cal.Comp.Cases 313].)

Section 5702 states that:

The parties to a controversy may stipulate the facts relative thereto in writing and file such stipulation with the appeals board. The appeals board may thereupon make its findings and award based upon such stipulation, or may set the matter down for

hearing and take further testimony or make the further investigation necessary to enable it to determine the matter in controversy.

(Lab. Code, § 5702.)

Here, the parties' stipulation that applicant's tinnitus caused 0% permanent disability relied on the testing done by PQME Dr. Burres. While the AMA Guides provides no standard rating for tinnitus, it does not state that the rating for the impairment is 0. PQME Dr. Burres identified some impact upon applicant's ADLs due to the tinnitus alone, which included a mild disruption of applicant's daily activities and the need to avoid extremely noise environments. Thus, upon return, we recommend that the parties obtain further reporting from PQME Dr. Burres to consider the application of *Almaraz-Guzman* and whether the rating may be rebutted by analogy for applicant's tinnitus.

Accordingly, we grant reconsideration, rescind the WCJ's decision and substitute a new decision that corrects the clerical error as to the date of injury and defers the issues of permanent disability and attorney's fees. We otherwise make no other substantive changes to the decision.

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 Findings, Award and Orders issued by the WCJ on March 20, 2026 is **RESCINDED** and the following is **SUBSTITUTED** therefor:

FINDINGS OF FACT

1. Mitchell Thomas, while employed during the period from January 1, 2002 through December 31, 2020, as a firefighter, occupational group 490, at Monterey, California, by the State of California, Department of Forestry, legally uninsured, administered by State Compensation Insurance Fund, sustained injury arising out of and in the course of employment to his cervical spine, lumbar spine, bilateral shoulders, hearing loss, scarring and heart.
2. At the time of the injury the employee's earnings were \$1,905.00 per week warranting indemnity rates of \$1,270.01 for temporary disability and \$290 for permanent disability.
3. The employer has paid compensation as follows: Total temporary disability at the weekly rate of \$1,271.01 for the period from January 5, 2023 through January 1, 2025.

4. The employee has been adequately compensated for all periods of temporary disability claimed through the present.
5. The employer has furnished all medical treatment, and the primary treating physician is John Reyher, D.O.
6. There is a previous Stipulation, Award and Order dated November 7, 2023 for \$6,123.26 in attorney fees in ADJ17238555. The Stipulation and Order regarding attorney fees for retroactive temporary disability is incorporated by reference and set fees shall be deducted from any retroactive indemnity awarded.
7. The issue of permanent disability is deferred.
8. There is a need for further medical treatment to cure or relieve the effects of the industrial injury.
9. The issue of attorney fees is deferred.

AWARD

AWARD is made in favor of Mitchell Thomas, against the California Department of Forestry, legally uninsured, administered by State Compensation Insurance Fund, as follows:

1. Further medical treatment in accordance with Finding of Fact 8 above.
2. The issues of permanent disability and attorney fees are deferred in accordance with Findings of Fact 7 and 9 above.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ JOSEPH V. CAPURRO, COMMISSIONER

/s/ PAUL F. KELLY, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

JUNE 16, 2026

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

**MITCHELL THOMAS
WIESNER ENGLISH, PC
STATE COMPENATION INSURANCE FUND**

DLP/md

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