

IN THE SUPREME COURT OF THE STATE OF DELAWARE

|                           |   |                               |
|---------------------------|---|-------------------------------|
| CRAIG PEED,               | § |                               |
|                           | § | No. 81, 2026                  |
| Claimant Below,           | § |                               |
| Appellant,                | § | Court Below: Superior Court   |
|                           | § | of the State of Delaware      |
| v.                        | § |                               |
|                           | § | C.A. No. S25A-06-001          |
| ESSENTIAL STAFFING, INC., | § |                               |
|                           | § |                               |
| Employer Below,           | § |                               |
| Appellee.                 | § |                               |
|                           |   | Submitted: September 16, 2026 |
|                           |   | Decided: October 5, 2026      |

Before **SEITZ**, Chief Justice; **TRAYNOR**, and **GRIFFITHS**, Justices.

**ORDER**

The Court, having considered the briefs and the record below, rules as follows:

(1) In 2012, Craig Peed, an Essential Staffing, Inc. employee, suffered serious injuries when a falling tree limb struck him on the head. Essential Staffing’s workers compensation carrier paid Peed total disability benefits.<sup>1</sup> In 2016, Peed’s upper teeth nine through eleven began to fracture at the gum line.<sup>2</sup> After dental treatment, Peed filed a petition to determine additional compensation.<sup>3</sup> In a 2018

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<sup>1</sup> App. to Opening Br. at A030 [hereinafter A\_] (2025 IAB Decision at 2).

<sup>2</sup> A048 (2018 IAB Decision at 3).

<sup>3</sup> Under 19 *Del. C.* § 2347, a party may petition for modification of an existing IAB award “on the ground that the incapacity of the injured employee has subsequently terminated, increased, diminished, or recurred, or that the status of the dependent has changed.”

decision, the IAB heard competing testimony and found a causal relationship between the accident and damage to his upper teeth nine through eleven.<sup>4</sup> Essential Staffing’s workers compensation carrier paid Peed for the upper teeth treatments.

(2) In the 2018 IAB decision, Peed claims that the Board made “subsidiary factual findings” relevant to this appeal.<sup>5</sup> First, according to Peed, the IAB found that his “lack of dental care while he was in the coma and intubated led to desiccation of the teeth, which can lead to problems with the teeth years later.”<sup>6</sup> Second, Peed’s “dental condition prior to the industrial accident would not have created the situation where his top front teeth are breaking off at the gum line” and the fractures he experienced “are not due to his past dental history.”<sup>7</sup> And third, “it could take years for the problems to appear in the teeth after a trauma to the mouth.”<sup>8</sup>

(3) In 2023, Peed developed more dental problems, this time with his lower teeth. The lower teeth had worn down to “stumps,”<sup>9</sup> and the nerves were nearly exposed. Peed’s dentist, Dr. Arvind Jain, performed root canals on lower teeth

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<sup>4</sup> A056–57.

<sup>5</sup> Opening Br. 14.

<sup>6</sup> *Id.* at 16 (quoting A059).

<sup>7</sup> *Id.* at 16–17 (quoting A059).

<sup>8</sup> *Id.*

<sup>9</sup> A103 (2025 IAB Hr’g Tr. at 18).

twenty through twenty-eight to alleviate Peed's pain and recommended crowns to restore his chewing.<sup>10</sup>

(4) Peed filed another petition to determine additional compensation, this time for his lower teeth expenses. The IAB held a hearing and heard testimony from Peed's treating dentist and expert, Dr. Jain, and Essential Staffing's expert, Dr. Barry Berman. Dr. Jain testified that crowns installed on the upper teeth after the accident wore down the lower teeth. He explained that crowns do not contain the "same natural material" as enamel, causing greater friction with the lower teeth.<sup>11</sup> Dr. Jain also testified that the deterioration was consistent with lack of dental care during a coma.

(5) Dr. Berman testified by deposition. He stated that (a) dental bridges do not cause wear on opposing teeth; (b) such wear develops gradually over several years, but Peed's wear did not; (c) pre-existing dental decay likely caused the problems with Peed's lower teeth; and (d) Dr. Jain would have fabricated a nightguard to address the problem had he seen gradual deterioration.<sup>12</sup> Dr. Berman acknowledged that he did not have records from Christiana Hospital where Peed was

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<sup>10</sup> A071–72 (Dr. Jain Dep. at 19, 21).

<sup>11</sup> A073 (Dr. Jain Dep. at 26).

<sup>12</sup> A194–95 (Dr. Berman Dep. at 14–15, 17–19). A dental bridge is a connected crown. A070 (Dr. Jain Dep. at 13).

hospitalized after the accident.<sup>13</sup> Dr. Berman also admitted that he did not have the 2023 x-rays that Dr. Jain used to diagnose the deterioration.<sup>14</sup>

(6) During the deposition, Peed objected to Dr. Berman's opinion testimony for exceeding the scope of his report.<sup>15</sup> He renewed the objection at the hearing.<sup>16</sup> The IAB noted the objection but did not expressly rule on it.<sup>17</sup>

(7) In 2025, the IAB denied additional compensation, concluding that Peed did not meet his burden to prove causation between the accident and the lower teeth dental work.<sup>18</sup> The IAB relied on Dr. Berman's testimony due to inconsistencies in Dr. Jain's testimony and Dr. Jain's reliance on post-root canal photographs.<sup>19</sup> The IAB explained that the procedure requires a dentist to grind the patient's teeth to the gum line and that Dr. Jain lost credibility by relying on post-procedure photographs to prove deterioration.<sup>20</sup>

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<sup>13</sup> A193 (Dr. Berman Dep. at 10).

<sup>14</sup> *Id.*

<sup>15</sup> The undisclosed testimony included: (1) Dr. Berman's opinion about hypothetical preventive measures that Dr. Jain should have taken; (2) Dr. Berman's anecdote about his own medical history involving a coma; and (3) Dr. Berman's claim that he had 55 years of professional experience. Opening Br. 42.

<sup>16</sup> A147–50 (2025 IAB Hr'g Tr. at 62–65).

<sup>17</sup> A150.

<sup>18</sup> A041 (2025 IAB Decision at 13).

<sup>19</sup> A042.

<sup>20</sup> *Id.*

(8) The IAB also found, based on Dr. Berman’s testimony, that “being in a coma and intubated would not lead to [Peed’s] bottom teeth decaying or make his teeth more susceptible to being ground down.”<sup>21</sup> It concluded that a patient could not experience pain in “nine teeth in a row” only six months after reporting no pain and that bridges do not commonly wear down teeth on the opposite side of the mouth, especially in such a short time period.<sup>22</sup>

(9) Peed appealed to the Superior Court. He argued that the IAB erred in five ways:

(1) it ignored the law of the case it established in the 2018 decision, (2) it relied on expert testimony that contradicted its 2018 findings, (3) it relitigated issues barred by *res judicata*, (4) its decision is unsupported by substantial evidence due to its improper reliance on Dr. Berman’s testimony; and (5) it failed to make a ruling on an objection raised against the admissibility of Dr. Berman’s testimony.<sup>23</sup>

(10) The court affirmed.<sup>24</sup> First, it concluded that the decision neither conflicted with nor was barred by the IAB’s 2018 decision. The law-of-the-case doctrine did not apply, the court held, because the two decisions addressed different issues. Each decision “involved treatment to different teeth needing dental work

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<sup>21</sup> *Id.*

<sup>22</sup> A042–43.

<sup>23</sup> *Peed v. Essential Staffing, Inc.*, 2026 WL 220601, at \*3 (Del. Super. Ct. Jan. 27, 2026).

<sup>24</sup> *Id.*

under different circumstances.”<sup>25</sup> For the same reason, the court found that neither *res judicata* nor collateral estoppel controlled the IAB’s later decision. The court also noted that both experts agreed that the lower teeth had not been injured in the accident.<sup>26</sup>

(11) Next, the court held that substantial evidence supported the IAB’s decision. According to the court, the IAB considered both experts’ testimony, weighed the evidence, and explained why it credited Dr. Berman’s testimony over that of Dr. Jain.<sup>27</sup>

(12) Finally, the court concluded that the IAB did not have to respond to Peed’s objection regarding Dr. Berman’s opinions. The court found that the IAB did not exceed its discretion because (1) the hearing officer noted Peed’s objection on the record; (2) Dr. Berman’s report was not a required disclosure; (3) Dr. Berman’s new opinions were in response to newly-learned information; and (4) Dr. Berman could be examined on anything relevant to the subject matter.<sup>28</sup>

(13) On appeal to this Court, Peed raises three issues: the IAB (a) improperly ignored prior factual findings; (b) did not support its decision with substantial

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<sup>25</sup> *Id.* at \*7.

<sup>26</sup> *Id.* at \*6.

<sup>27</sup> *Id.* at \*8; *see also* A041–43.

<sup>28</sup> *Peed*, 2026 WL 220601, at \*9.

evidence; and (c) failed to rule on a preserved objection to new expert opinions disclosed during a deposition and then relied on that testimony in its decision.

(14) As a procedural matter, we review the Superior Court’s decision affirming the IAB’s benefit denial. But in appeals from IAB decisions, this Court also examines the record for errors of law and determines whether the Board’s factual findings are supported by substantial evidence.<sup>29</sup> “[S]ubstantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.”<sup>30</sup> “Errors of law are reviewed *de novo*.”<sup>31</sup>

(15) First, we address Peed’s collateral estoppel argument. When “a court or administrative agency has decided an issue of fact necessary to its decision, the doctrine of collateral estoppel precludes relitigation of that issue in a subsequent suit or hearing concerning a different claim or cause of action involving a party to the first case.”<sup>32</sup> Here, we must determine whether:

(1) The issue previously decided is identical with the one presented in the action in question, (2) the prior action has been finally adjudicated on the merits, (3) the party against whom the doctrine is invoked was a party or in privity with a party to the prior adjudication, and (4) the

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<sup>29</sup> *Red House Motors v. Bayly*, 361 A.3d 852, 2026 WL 568964, at \*3 (Del. Mar. 2, 2026) (TABLE) (quoting *This & That Servs. Co. Inc. v. Nieves*, 303 A.3d 1220, 1226 (Del. 2023)).

<sup>30</sup> *Id.* (quoting *Nieves*, 303 A.3d at 1226).

<sup>31</sup> *Id.* (citing *Christiana Care Health Servs. v. Davis*, 127 A.3d 391, 395 (Del. 2015)).

<sup>32</sup> *Betts v. Townsends, Inc.*, 765 A.2d 531, 534 (Del. 2000) (citing *Messick v. Star Enter.*, 655 A.2d 1209, 1211 (Del. 1995)).

party against whom the doctrine is raised had a full and fair opportunity to litigate the issue in the prior action.<sup>33</sup>

(16) Peed argues on appeal that the Superior Court erroneously limited the scope of the 2018 decision to specific teeth.<sup>34</sup> Relying on what Peed characterizes as the IAB’s 2018 subsidiary factual findings, Peed claims that the court should have applied the earlier IAB finding that “coma-induced desiccation causes dental damage that can manifest years later.”<sup>35</sup> Peed also contends that the Superior Court misread 19 *Del. C.* § 2347 to allow the IAB to ignore factual findings in a prior decision.<sup>36</sup>

(17) Peed’s reliance on the subsidiary factual findings is misplaced. To the extent that the findings described the mechanism causing Peed’s dental problems, they resolved that issue for the upper teeth dental problems. The findings did not automatically carry over to the lower teeth dental problems.

(18) *Betts v. Townsends, Inc.* is instructive.<sup>37</sup> There, an employee injured his right knee in a workplace accident. The IAB determined that the work injury caused temporary total disability. A year later, the IAB decided that the injury did not cause

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<sup>33</sup> *Id.* at 535 (citing *State v. Machin*, 642 A.2d 1235, 1239 (Del. 1993)).

<sup>34</sup> Opening Br. 23–25.

<sup>35</sup> *Id.* at 23.

<sup>36</sup> *Id.* at 21–23.

<sup>37</sup> 765 A.2d 531 (Del. 2000).

permanent partial disability. While both cases addressed the right knee, this Court held that the decisions addressed different issues for purposes of collateral estoppel – causation for temporary total disability and causation for permanent partial disability.<sup>38</sup> In 2018, the IAB had to determine causation for damage to Peed’s upper teeth. In 2025, the IAB faced a different task – determining causation for damage to Peed’s lower teeth. Because the issues are different, the Superior Court held correctly that collateral estoppel did not apply.

(19) Next, Peed argues that the Superior Court misread Section 2347 to allow the IAB a “general license” to repudiate factual findings.<sup>39</sup> Section 2347 states: “On the application of any party in interest on the ground that the incapacity of the injured employee has subsequently terminated, increased, diminished, or recurred . . . the Board may at any time . . . review any agreement or award.”<sup>40</sup>

(20) It is true that, under Section 2347, the IAB cannot retroactively change an award.<sup>41</sup> But it may address a change in circumstances that bears on future payments.<sup>42</sup> We explained this distinction in *Betts*:

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<sup>38</sup> *Id.* at 535 (“Whether an industrial accident caused temporary total disability or permanent partial disability are two totally distinct questions.”).

<sup>39</sup> Opening Br. 21.

<sup>40</sup> 19 *Del. C.* § 2347(a).

<sup>41</sup> *Sheppard v. Allen Fam. Foods*, 279 A.3d 816, 826 (Del. 2022).

<sup>42</sup> *Id.* at 826–27 (“[An IAB compensation award] is not an adjudication as to the claimant’s future condition and does not preclude subsequent awards or subsequent modifications of the original

For example, suppose the Board found that a claimant was involved in an industrial accident that caused permanent partial disability. Subsequently, the employer seeks to terminate benefits on the basis that the claimant is no longer permanently disabled. In that case, *res judicata* would prevent the Board from revisiting the issue of causation. Under § 2347, however, the Board would be free to reconsider whether the claimant remained permanently partially disabled because it has statutory authority to determine if the incapacity of the employee has subsequently terminated.<sup>43</sup>

(21) Here, the Superior Court explained that *res judicata* would not bar the IAB from deciding a new issue, which was damage to lower teeth.<sup>44</sup> It did not retroactively change the IAB's previous finding of a causal relationship between the accident and damage to upper teeth or otherwise imply that the IAB may revisit the 2018 decision.

(22) Peed also contends that the IAB's decision was not supported by substantial evidence. He claims that the IAB mischaracterized Dr. Jain's testimony as describing both gradual and rapid deterioration.<sup>45</sup> He also points to what he views as deficiencies in Dr. Berman's opinions – his failure to review Peed's 2012 hospitalization records, the 2023 x-rays Dr. Jain used to diagnose the deterioration,

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award.” (quoting *Shively v. Allied Sys., Ltd.*, 2010 WL 537734, at \*10 (Del. Super. Ct. Feb. 9, 2010)).

<sup>43</sup> 765 A.2d at 534 n.1.

<sup>44</sup> *Peed*, 2026 WL 220601, at \*6–7.

<sup>45</sup> Opening Br. 33–34.

and certain photographs.<sup>46</sup> Peed also claims that the IAB inconsistently described Peed’s pre-accident dental history as both good and poor.<sup>47</sup>

(23) Peed does not dispute that Dr. Jain relied on the post-root canal photographs, which the IAB found led to a lack of credibility on Dr. Jain’s part.<sup>48</sup> As to Dr. Berman’s review of medical records, Peed concedes that Dr. Berman reviewed “Dr. Jain’s treatment notes.”<sup>49</sup> Also, Peed visited Dr. Jain “approximately 25 times between 2018 and 2023.”<sup>50</sup> And Dr. Berman testified that he reviewed Dr. Jain’s deposition transcript in addition to examining Peed in person.<sup>51</sup> Regarding the IAB’s characterization of Peed’s pre-accident dental health, the IAB summarized *testimony* describing Peed’s pre-accident dental health as “good,” but never made such a finding.<sup>52</sup> There was substantial evidence supporting the IAB’s decision.

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<sup>46</sup> *Id.* at 31.

<sup>47</sup> *Id.* at 33.

<sup>48</sup> A042 (2025 IAB Decision at 14). The IAB’s discussion of the Dr. Jain’s improper reliance on the post-root canal photographs satisfies its requirement to provide “specific references to the evidence of record that prompts disbelief” when making credibility determinations. *Turbitt v. Blue Hen Lines, Inc.*, 711 A.2d 1214, 1216 (Del. 1998) (citing *Lemmon v. Northwood Constr.*, 690 A.2d 912, 913–14 (Del. 1996)); *see also* Opening Br. 27 (providing same quote from *Turbitt*).

<sup>49</sup> Opening Br. 32.

<sup>50</sup> A042.

<sup>51</sup> A193 (Dr. Berman Dep. at 10). Dr Jain thoroughly described Peed’s treatments and medical history throughout the deposition. *See, e.g.*, A076 (Dr. Jain Dep. at 38).

<sup>52</sup> A036–37 (2025 IAB Decision at 8–9) (“Laura Peed, Claimant’s wife of 23 years, testified on behalf of Claimant. . . . [H]e took good care of his teeth.”).

(24) Finally, Peed argues that the IAB erred by failing to rule on his objection to Dr. Berman’s opinions that were disclosed for the first time during his deposition. According to Peed, he was at a disadvantage during the hearing because he did not know what evidence the IAB admitted and might rely on for its decision. And, Peed claims, this Court cannot review on appeal the propriety of an objection if the IAB has not expressly ruled on the objection.

(25) Peed is correct that, as a general matter, the IAB should address objections made by the parties. But the IAB “may relax the rules of evidence and allow the proceedings to be less formal than a trial.”<sup>53</sup> In other words, “[t]he Board may, in its discretion, disregard any customary rules of evidence and legal procedures so long as such a disregard does not amount to an abuse of its discretion.”<sup>54</sup> Here, as the Superior Court found, the hearing officer noted the objection for the record; Dr. Berman was not required to disclose his report; Dr. Berman’s deposition testimony responded to new information learned after Dr. Jain’s deposition; and Peed was able to cross-examine Dr. Berman on “anything relevant to the subject matter.”<sup>55</sup>

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<sup>53</sup> *Torres v. Allen Fam. Foods*, 672 A.2d 26, 31 (Del. 1995).

<sup>54</sup> 19 *Del. Admin. C.* § 1331-14.3.

<sup>55</sup> *Peed*, 2026 WL 220601, at \*9.

(26) Peed relies on *Turbitt v. Blue Hen Lines, Inc.*, where we reversed the IAB for “bas[ing] a decision on information outside of the record without notice to the parties.”<sup>56</sup> Peed also refers to *Willis v. Plastic Materials, Co.*, where we held that “[a] court cannot exercise its function on appeal if the Board does not make adequate findings . . . .”<sup>57</sup>

(27) In *Turbitt*, however, the Board relied on its “institutional experience” or “administrative experience.”<sup>58</sup> Here, the Board relied on Dr. Berman’s testimony, which was part of the record. Dr. Berman was also subject to cross-examination. And, unlike *Willis*, where the Superior Court reversed the IAB’s attorneys’ fees award for failing to consider all factors of a multi-factor test relevant to a fee award,<sup>59</sup> the Superior Court and this Court can review the record and decide whether the failure to rule on the objection deprived Peed of a fair hearing. As explained above, it did not.

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<sup>56</sup> Opening Br. 38 (quoting 711 A.2d at 1216).

<sup>57</sup> *Id.* at 38–39 (quoting 2003 WL 164292, at \*2 (Del. Super. Ct. Jan. 13, 2003)).

<sup>58</sup> 711 A.2d at 1215–16.

<sup>59</sup> 2003 WL 164292, at \*2.

NOW, THEREFORE, IT IS HEREBY ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Collins J. Seitz, Jr.  
Chief Justice