

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

**JUAN CORTEZ RENTERIA, (*dec'd*), Applicant**

**vs.**

**POLYCLAD LAMINATES, INC.; PACIFIC EMPLOYERS INSURANCE COMPANY  
administered by GALLAGHER BASSETT SERVICES; NEWPORT ADHESIVES;  
TOKIO MARINE, Defendants**

**Adjudication Number: ADJ8750673; ADJ8157779; ADJ9670580  
Santa Ana District Office**

**OPINION AND ORDER  
GRANTING PETITION FOR  
RECONSIDERATION**

Applicant, though his attorneys Shehzad Ahmad and California Law Associates, seeks reconsideration of a workers' compensation administrative law judge's (WCJ) Findings and Order issued on August 19, 2024, wherein it was found in pertinent part that applicant's attorney is not entitled to reimbursement for costs incurred for the services of an expert opinion regarding circuit board manufacturing and chemicals used in the construction of multilayer printed circuit boards because at the time it was incurred it was not reasonable and/or necessary.

Applicant's attorney contends that he is entitled to reimbursement because the expense was both reasonable and necessary since the company that applicant worked for is no longer in business and failed to produce the Material Safety Data Sheets (MSDS) nor has the company provided many records, thus an expert was reasonable and necessary to determine if the chemicals applicant was possibly exposed to were cancer causing.

We received an Answer from defendant. The WCJ prepared a Report and Recommendation on Petition for Reconsideration (Report), recommending that the Petition be denied.

We have considered the Petition for Reconsideration, the Answer, and the contents of the Report, and we have reviewed the record in this matter. Based upon our preliminary review of the record, we will grant applicant's Petition for Reconsideration. Our order granting the Petition for Reconsideration is not a final order, and we will order that a final decision after reconsideration is

deferred pending further review of the merits of the Petition for Reconsideration and further consideration of the entire record in light of the applicable statutory and decisional law. Once a final decision after reconsideration is issued by the Appeals Board, any aggrieved person may timely seek a writ of review pursuant to Labor Code section 5950 et seq.

## **BACKGROUND**

Applicant claimed that while employed by defendant Polyclad Laminates (later purchased by Isola Corporation) as a machine operator, he sustained a cumulative injury from January 1, 1996 to January 1, 2003 to his throat, respiratory, psyche, headaches, depression, and sleep. (Case Number ADJ8750673) Applicant claimed that while employed by defendant Newport Adhesives as a machine operator, he sustained cumulative injury from September 1, 2008 to January 1, 2011 to his internal organs and other body parts. (Case Number ADJ815779) His dependents also filed an Application for Adjudication (Application) of a death claim, alleging that applicant's death on September 25, 2013 was caused by his work at Newport Adhesives. (Case Number ADJ9670580)

Applicant filed the Applications as follows: in ADJ815779 on December 12, 2011; in ADJ8750673 on December 31, 2012; and in ADJ9670580 on September 24, 2014.

On August 29, 2012, applicant was deposed by Newport Adhesives, by way of a Spanish-speaking interpreter. (Exhibit F.)

Applicant alleges in his Petition for Reconsideration that on June 20, 2012, panel qualified medical evaluator (PQME) James A. Padova, M.D., evaluated applicant and authored a medical report opining that the latency period for laryngeal cancer takes a prolonged period of 10 years or more to develop. Applicant then filed the Application naming applicant's previous employer, Polyclad Laminates, after consulting with co-defendant Newport Adhesives because the previous employment with Polyclad Laminates may have exposed applicant to cancer causing chemicals.

On November 1, 2013, defendant workers' compensation insurance carrier for Polyclad Laminates denied applicant's claim. (Exhibit A.)

In a series of four letters to defendant's former attorneys from September 12, 2013 to April 12, 2014, applicant's attorneys sought the Material Data Safety Sheets (MSDS) from Polyclad Laminates. (Exhibits 1 to 4.)

On September 9, 2014, Human Resources Manager for Isola Stacie Carter executed a declaration under penalty of perjury. (Exhibit G.) She stated that Isola had acquired the assets of

Polyclad subsequent to the period of applicant's employment. On January 7, 2014, she received a subpoena for records regarding applicant, which was purportedly attached to the declaration as Exhibit A. She contacted the seller, who had no responsive records. She then stated that:

“Internally, we gathered the personnel records that Isola had related to Mr. Renteria as well as the requested Material Safety Data Sheets, true and correct copies of which are attached as Exhibit B and which have previously been produced. Exhibit B constitutes the entirety of the responsive documents that Isola has to the Subpoena in its possession, custody and control.” (Exhibit G, p. 2.)

Unfortunately, defendant did not attach Exhibit A and B to the declaration that defendant submitted into evidence.

On October 6, 2015, the parties proceeded to a status conference before WCJ Barnes. They made a joint request for an order to take off calendar (OTOC), which was granted. The Minutes of Hearing state:

“Death claim (for cancer) Tokio Marine requests list of chemicals which Polyclad used from Jan 1996 to 2003. Polyclad has relocated to NoCal in 2003 and offered its emps ongoing emp, but Renteria chose not to relocate. It changed names 2X's -now called Isola. An HR person is researching.

The government requires that manufacturers produce the list of these chemicals. Therefore, Isola should be able to produce list of chemicals formulation, data & product literature. AA also needs to find documentation to support the dependency claim. Isola has 45 days to comply w/ discovery.”

On April 12, 2016, the parties proceeded to a status conference before WCJ Barnes. They made a joint request for an OTOC, which was granted. The Minutes of Hearing state:

“Isola recently closed its Calif facility. It purchased Polyclad in 2006. It has produced any & all docs it has per court's 10/6/2015 Order (though it does not have all that requested)

Within 30 days Isola is now asked to produce the name(s) of any Manufacturing Engineer or Materials Buyer between 96 & 2003 \* and any senior engineer who is familiar w/ the making & products used for the circuit boards which were produced in 2006.

\* or any individual knowledgeable about the chemicals used in the making of circuit boards.”

On March 7, 2017, QME Thomas Allems, M.D., issued a report. As relevant herein, he stated that he reviewed 3 MDMSs from Polyclad or 27 pages. (Exhibit E, p. 2.)

On July 11, 2017, WCJ Barnes held a conference, and after she granted the parties' joint request for a continuance, the matter was set for a conference before WCJ Famiglietti on September 13, 2017. The Minutes of Hearing state:

“Isola (formerly Polyclad) produced circuit boards & contends it no longer has the info which the 10/06/15 Order sought. Therefore AA or CoDef will Petition the Court for Isola to bear the expense of an Expert to issue a rept as to the chemical contents of a 1996 →2003 circuit board. Polyclad is no longer still in business.

The alleged dependent Maximiliano Cortez still lives in Mexico-AA hasn't had contact w/ him recently to det if he can travel to Calif

Ptys ask for a continuance.”

On September 13, 2017, a status conference was held before WCJ Famiglietti. Defendant requested a continuance. In Other/Comments section, it states that:

“D/A wants depo of alleged dependent A/A MAY Add Additional dependent. A/A wants to hire expert re: manf. process. Petition filed. D/A wants time to review. OK to reset in 3 wks or add on to calendar.”

On October 6, 2017, applicant filed the petition for costs that is at issue herein. Applicant alleged that:

“Based on this information [regarding the latency period] applicant's [*sic*] sought MSDS from applicant's employer PolyClad Laminates where he was employed during the period 1/1/96 thru 1/1/2003. Polyclad [Laminates] which was bought by Isola Corporation was in the circuit board manufacturing business similar to applicant's subsequent employer Newport Adhesives.

Applicant sought MSDS information by way of SDT from Isola Corporation dba Polyclad [L]aminates but defendant's [*sic*] failed to provide MSDS data as requested. Defendant Isola Corporation [p]rovided very few MSDS information stating that they have not kept the records or that they did not find them.

Applicant then requested Defendant Isola Corporation to provide names of persons most familiar and knowledgeable with the manufacturing processes and materials used in the manufacture of printed circuit boards. Defendant Isola Corporation provided names of two engineers John Huckaba and Carlos Ayala who they claimed were knowledgeable without providing any other information as to their whereabouts. After diligent search applicant [was] able to locate one of the witnesses John Hucaba and scheduled a deposition [for] July 28, 2017.

Mr. Hucaba on June 30, 2017 wrote that he did not have any of the information sought by the Notice of deposition and that he would not show up for the deposition

(Exhibit 1). In response applicant sought additional information by way of interrogatories from Mr. Hucaba on July 11, 2017 (exhibit 2). Mr. Huckaba responded by letter dated July 24, 2017 essentially stating that he was not involved with Polyclad Laminates prior to 2006 and did not have any information about the product formulations manufactured or the manufacturing process. (exhibit 3)”

Applicant contended that defendant failed to comply with multiple discovery requests, with respect to MSDS data and to produce witnesses who are familiar with the product formulations and materials and chemical used in the process.

“Based on the above, applicant has no other alternative but to employ an expert familiar with the processes and material used in the circuit board manufacturing process to provide a report as to materials used. This information is absolutely essential in development of the medical record. Applicant petitions the Court that costs associated with employment of the expert be borne by Defendant Isola Corporation. dba Polyclad Laminates.”

According to Events in the Electronic Adjudication Management System (EAMS), defendant filed a response to the petition for costs on October 10, 2017, but the response is not in FileNet in EAMS.

On October 11, 2017, a conference was held before WCJ Famiglietti. A joint request was made to take the matter off calendar in order to conduct further discovery. In Other/Comments section, it states that:

“A/A may add additional dependent. *A/A Also MAY obtain the services of an expert on circuit board mfg to assist in proving compensability*” [Bold added for emphasis.]

On December 14, 2018, Dr. Allems issued a report. (Exhibit D.) The only new record that he received for review was treating physician Ronald Zlotolow M.D.,’s October 29, 2018 report. (Exhibit D, p. 2.) However, as relevant herein, he stated that:

“I also reviewed the MSDSs sent to me and importantly found that none of the products that were in use in Polyclad contained any human carcinogens. And none of them contained any of the specific laryngeal carcinogens that are recognized by the Intentional Agency for Research on Cancer (IARC [1, table attached]) – strong inorganic acid mists, alcoholic beverages, asbestos and tobacco smoking. Nor did the MSDSs reflect that he was exposed to any of the agents for which there is limited evidence of laryngeal carcinogenicity – human papilloma virus (HPV), rubber production industry, sulfur mustard, second hand tobacco smoke.” (Exhibit D, p. 3 [Bold in original omitted].)

On April 9, 2019, applicant's attorneys retained Tom J. Maricich, Ph.D., with Chem Consulting, Inc., who qualified as an expert in General and Organic Chemistry and issued a Report on July 2, 2019. (Exhibit 8, 7/2/2019.) In his report, as relevant herein, he stated that he reviewed: MSDS data from Newport Adhesives (1400 pages); MSDS data from Polyclad Laminates (30 pages); Isola-Group manufacturing diagrams for printed circuit board materials; and Isola-Group MSDS data for materials and chemicals used in their processes. (Exhibit 8, p. 1.)

On September 4, 2019, Dr. Zlotolow issued a supplemental medical-legal report summarizing Dr. Maricich's report. (Exhibit 6.) Based on his review of the report, he concluded that applicant had been exposed to chemicals on the job and that he had no reason to change his previous opinion that applicant's laryngeal cancer was industrially related.

On September 11, 2019, the parties proceeded to an MSC. They submitted a joint request to OTOC the matter for further discovery. In Other/Comments section, it states that:

"D/A ok w/ A/A sending "expert" report and PTP report reviewing "expert's" rpt to PQME Padova. A/A shall fwd said materials w/in 30 days. Parties may send separate or joint interrog letter to PQME, as they agree."

On, September 8, 2021, Dr. Zlotolow issued a supplemental medical-legal report. (Exhibit 5, 7/8/2021.) As relevant herein, he stated that:

"My response to this is that I never received the material safety data sheets (MSDSs) from Polyclad Laminates, Inc. According to this deposition and reports, there is 1,400 pages of MSDS, which should be provided for me. I based my opinion on what the patient told me prior to his death, that his exposure at Polyclad was similar to his exposure at Newport Adhesives. I did review the MSDSs from Newport Adhesives and did find that he was exposed to various solvents, which after consideration of his smoking history, I still found to it to play a substantial factor in the development of the laryngeal cancer; Please send me the MSDS from Polyclad so I can see exactly what he was working with to see if he was exposed to occupational solvents. . . ." (Exhibit 5, p. 4.)

The claim for death/dependency benefits was resolved by way of a Compromise & Release (C&R), although all three case numbers are listed on the C&R, and on October 19, 2023, the WCJ issued an order approving the C&R.

On May 30, 2024, the matter came on for trial on the sole issue of applicant's entitlement to costs.

On August 19, 2024, the WCJ issued his decision. In his Opinion, he stated that based on his review of applicant’s deposition testimony describing his job duties, Dr. Maricich’s reporting was not reasonable or necessary.

## I.

Former Labor Code<sup>1</sup> 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.

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 September 20, 2024, and 60 days from the date of transmission is November 19, 2024. This decision is issued by or on November 19, 2024, so that we have timely acted on the petition as required by Section 5909(a).

Section 5909(b)(1) requires that the parties and the Appeals Board be provided with notice of transmission of the case. Transmission of the case to the Appeals Board in EAMS provides notice to the Appeals Board. Thus, the requirement in subdivision (1) ensures that the parties are notified of the accurate date for the commencement of the 60-day period for the Appeals Board to

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<sup>1</sup> All further statutory references are to the Labor Code unless otherwise stated.

act on a petition. Section 5909(b)(2) provides that service of the Report and Recommendation shall be notice of transmission.

## II.

Section 5811 provides: “. . . In all proceedings under this division before the appeals board, costs as between the parties may be allowed by the appeals board.” Historically, the section 5811 “costs” allowed by the WCAB have been litigation costs incurred by one of the parties in the case-in-chief. (See, e.g., *Costa v. Hardy Diagnostic* (2006) 72 Cal.Comp.Cases 1492 (Appeals Board en banc) (*Costa II*). [costs of injured employee’s vocational expert opinion in rebuttal to permanent disability rating under section 5811, if among other things were reasonable and necessary at the time incurred]; *Los Angeles Unified School Dist. v. Workers’ Comp. Appeals Bd. (Kilgore)* (1984) 49 Cal.Comp.Cases 631 (writ den.) [injured employee awarded costs of an expert witness, a former disability evaluation specialist, obtained to rebut permanent disability rating].)

Section 5811 “costs” do not include costs and expenses that are governed by other specific statutory schemes. (See *Elliott v. Workers’ Comp. Appeals Bd.* (2010) 182 Cal.App.4th 355, 365 [75 Cal.Comp.Cases 81] [“as a matter of statutory construction, a specific provision relating to a particular subject will govern that subject as against a general provision”].) As stated in the Appeals Board’s en banc decision in *Costa II*: “There are . . . limitations on the costs that may be reimbursed under section 5811. [Costs, expenses, or fees] which are awarded under conditions specified in the Labor Code . . . are not available as ‘costs’ under section 5811.” (72 Cal.Comp.Cases at p. 1497, fn. 3.)

Applicant, who was Spanish-speaking, worked as a set-up person at Newport Adhesives and prior to that in a similar role at Polyclad Laminates/Isola earning \$9.37 per hour. Both companies manufactured circuit boards. Here, the WCJ relied on the testimony of applicant taken by Newport Adhesives in 2012, before Polyclad Laminates was a party, to decide that applicant’s exposure to chemicals at both places of employment was the same. It is clear from the record that applicant was unsophisticated and had no training in chemistry.

As the Court of Appeal explained in *Peter Kiewit Sons v. Ind. Acc. Com.* (1965) 234 Cal.App.2d 831, 838 839 [30 Cal.Comp.Cases 188]: “Where an issue is exclusively a matter of scientific medical knowledge, expert evidence is essential to sustain a [WCAB] finding; lay testimony or opinion in support of such a finding does not measure up to the standard of substantial



evidence. Expert testimony is necessary where the truth is occult and can be found only by resorting to the sciences.” Public policy favors liberal pre-trial discovery that may reasonably lead to relevant and admissible evidence and this applies in workers' compensation cases. (*Allison v. Workers' Comp. Appeals Bd.* (1999) 72 Cal. App. 4th 654, 663 [84 Cal. Rptr. 2d 915, 64 Cal.Comp.Cases 624].)

Applicant's attorney alleges that he requested information regarding applicant's employment from Polyclad Laminates, including the MSDS, to no avail until ultimately having to issue a subpoena in order to learn the chemical make-up of the company's products. According to the September 9, 2014 declaration of Stacie Carter, she attached the MSDS to her declaration, but the records are not attached to the declaration. Thus, after applicant's attorney was only able to obtain about 30 pages of MSDS from Polyclad Laminates, in contrast to over 1400 pages of MSDS from Newport, he sought other means to obtain the information as to the actual chemicals that applicant was exposed to during his employment with Polyclad Laminates. Applicant's attorney then sought the advice of an expert as to what chemicals applicant would have been exposed to and whether the documented chemicals from Newport were likely to be similar to what applicant was exposed to Polyclad.

As explained above, the consideration of whether the retention of an expert is reasonable and necessary turns on the timing. Based on our preliminary review, applicant's testimony is likely not sufficient to document this chemical exposure. Moreover, we observe that before costs *may* be allowed for testimony and/reports of an expert witness, that person must, of course, qualify as an expert. Dr. Maricich was retained to serve as an expert in the manufacturing process and chemicals that Polyclad Laminates used in the construction of its multilayer printed circuit boards, and the WCJ agreed that Dr. Maricich qualified as an expert in general and organic chemistry. Dr. Maricich reviewed the medical reports of the doctors, the deposition transcript of applicant, the MSDS data from Newport Adhesives (over 1400 pages) and MSDS data from Polyclad Laminates (about 30 pages), and reviewed additional data from the Isola Group and issued a report. Dr. Maricich was retained and qualified as an expert in the manufacturing process and chemicals used in the construction of multilayer printed circuit boards because Polyclad Laminate provided few MSDS making it difficult to determine what applicant had been exposed to when he was working at Polyclad Laminate. Thus, we grant the Petition for Reconsideration in order to review the matter

further to determine is the record is sufficient to reach a conclusion regarding whether applicant is entitled to reimbursement for costs.

### III.

In addition, under our broad grant of authority, our jurisdiction over this matter is continuing.

A grant of reconsideration has the effect of causing “the whole subject matter [to be] reopened for further consideration and determination” (*Great Western Power Co. v. Industrial Acc. Com. (Savercool)* (1923) 191 Cal.724, 729 [10 I.A.C. 322]) and of “[throwing] the entire record open for review.” (*State Comp. Ins. Fund v. Industrial Acc. Com. (George)* (1954) 125 Cal.App.2d 201, 203 [19 Cal.Comp.Cases 98].) Thus, once reconsideration has been granted, the Appeals Board has the full power to make new and different findings on issues presented for determination at the trial level, even with respect to issues not raised in the petition for reconsideration before it. (See Lab. Code, §§ 5907, 5908, 5908.5; see also *Gonzales v. Industrial Acci. Com.* (1958) 50 Cal.2d 360, 364.) “[t]here is no provision in chapter 7, dealing with proceedings for reconsideration and judicial review, limiting the time within which the commission may make its decision on reconsideration, and in the absence of a statutory authority limitation none will be implied.”; see generally Lab. Code, § 5803 [“The WCAB has continuing jurisdiction over its orders, decisions, and awards. . . . At any time, upon notice and after an opportunity to be heard is given to the parties in interest, the appeals board may rescind, alter, or amend any order, decision, or award, good cause appearing therefor.”].)

“The WCAB . . . is a constitutional court; hence, its final decisions are given res judicata effect.” (*Azadigian v. Workers’ Comp. Appeals Bd.* (1992) 7 Cal.App.4th 372, 374 [57 Cal.Comp.Cases 391; see *Dow Chemical Co. v. Workmen’s Comp. App. Bd.* (1967) 67 Cal.2d 483, 491 [32 Cal.Comp.Cases 431]; *Dakins v. Board of Pension Commissioners* (1982) 134 Cal.App.3d 374, 381 [184 Cal.Rptr. 576]; *Solari v. Atlas-Universal Service, Inc.* (1963) 215 Cal.App.2d 587, 593 [30 Cal.Rptr. 407].) A “final” order has been defined as one that either “determines any substantive right or liability of those involved in the case” (*Rymer v. Hagler* (1989) 211 Cal.App.3d 1171, 1180; *Safeway Stores, Inc. v. Workers’ Comp. Appeals Bd. (Pointer)* (1980) 104 Cal.App.3d 528, 534-535 [45 Cal.Comp.Cases 410]; *Kaiser Foundation Hospitals v. Workers’ Comp. Appeals Bd. (Kramer)* (1978) 82 Cal.App.3d 39, 45 [43 Cal.Comp.Cases 661]), or determines a “threshold”

issue that is fundamental to the claim for benefits. Interlocutory procedural or evidentiary decisions, entered in the midst of the workers' compensation proceedings, are not considered "final" orders. (*Maranian v. Workers' Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1070, 1075 [65 Cal.Comp.Cases 650].) ["interim orders, which do not decide a threshold issue, such as intermediate procedural or evidentiary decisions, are not 'final'"]; *Rymer, supra*, at p. 1180 ["[t]he term ['final'] does not include intermediate procedural orders or discovery orders"]; *Kramer, supra*, at p. 45 ["[t]he term ['final'] does not include intermediate procedural orders"].)

Section 5901 states in relevant part that:

No cause of action arising out of any final order, decision or award made and filed by the appeals board or a workers' compensation judge shall accrue in any court to any person until and unless the appeals board on its own motion sets aside the final order, decision, or award and removes the proceeding to itself or if the person files a petition for reconsideration, and the reconsideration is granted or denied. ...

Thus, this is not a final decision on the merits of the Petition for Reconsideration, and we will order that issuance of the final decision after reconsideration is deferred. Once a final decision is issued by the Appeals Board, any aggrieved person may timely seek a writ of review pursuant to Labor Code sections 5950 et seq.

#### IV.

Accordingly, we grant applicant's Petition for Reconsideration, and order that a final decision after reconsideration is deferred pending further review of the merits of the Petition for Reconsideration and further consideration of the entire record in light of the applicable statutory and decisional law. ***While this matter is pending before the Appeals Board, we encourage the parties to participate in the Appeals Board's voluntary mediation program. Inquiries as to the use of our mediation program can be addressed to [WCABmediation@dir.ca.gov](mailto:WCABmediation@dir.ca.gov).***

For the foregoing reasons,

**IT IS ORDERED** that applicant's Petition for Reconsideration of the decision by the WCJ of August 19, 2024 is **GRANTED**.

**IT IS FURTHER ORDERED** that a final decision after reconsideration is **DEFERRED** pending further review of the merits of the Petition for Reconsideration and further consideration of the entire record in light of the applicable statutory and decisional law.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ JOSÉ H. RAZO, COMMISSIONER**

**I CONCUR,**

**/s/ KATHERINE A. ZALEWSKI, CHAIR**

**/s/ JOSEPH V. CAPURRO, COMMISSIONER**



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

**November 19, 2024**

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

**CALIFORNIA LAW ASSOCIATION  
LAW OFFICES OF MANTLE ZIMMER & EULO  
PEATMAN LAW GROUP**

**DLM/oo**

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