

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

**JEROME TATE, *Applicant***

**vs.**

**BAY AREA LOGISTICS, INC.; BAY AREA TRANSPORTATION, HARJIT  
BHAMBRA, individually and as a substantial shareholder of BAY AREA LOGISTICS,  
INC., and UEBTF, *Defendants***

**Adjudication Number: ADJ3101200 (OAK 0329125)  
Oakland District Office**

**OPINION AND ORDER  
DENYING PETITION FOR  
RECONSIDERATION**

We have considered the allegations of the Petition for Reconsideration and the contents of the report of the workers' compensation administrative law judge (WCJ) with respect thereto. 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. We also note the Petition for Reconsideration is skeletal and makes allegations of fraud and bias against the WCJ which are wholly unsubstantiated rendering it subject to dismissal or denial.

The Labor Code requires that:

The petition for reconsideration shall set forth specifically and in full detail the grounds upon which the petitioner considers the final order, decision or award made and filed by the appeals board or a workers' compensation judge to be unjust or unlawful, and every issue to be considered by the appeals board. The petition shall be verified upon oath in the manner required for verified pleadings in courts of record and shall contain a general statement of any evidence or other matters upon which the applicant relies in support thereof.  
(Lab. Code, § 5902, emphasis added.)

Moreover, the Appeals Board Rules provide in relevant part: (1) that "[e]very petition for reconsideration ... shall fairly state all the material evidence relative to the point or points at issue [and] [e]ach contention contained in a petition for reconsideration ... shall be separately stated and

clearly set forth” (Cal. Code Regs., tit. 8, former § 10842, now § 10945 (eff. Jan. 1, 2020) and (2) that “a petition for reconsideration ... may be denied or dismissed if it is unsupported by specific references to the record and to the principles of law involved” (Cal. Code Regs., tit. 8, former § 10846, now § 10972 (eff. Jan. 1, 2020).

In accordance with section 5902 and WCAB Rules 10945 and 10972, the Appeals Board may dismiss or deny a petition for reconsideration if it is skeletal (e.g., *Cal. Indemnity Ins. Co. v. Workers’ Comp. Appeals Bd. (Tardiff)* (2004) 69 Cal.Comp.Cases 104 (writ den.); *Hall v. Workers’ Comp. Appeals Bd.* (1984) 49 Cal.Comp.Cases 253 (writ den.); *Green v. Workers’ Comp. Appeals Bd.* (1980) 45 Cal.Comp.Cases 564 (writ den.)); if it fails to fairly state all of the material evidence, including that not favorable to it (e.g., *Addecco Employment Services v. Workers’ Comp. Appeals Bd. (Rios)* (2005) 70 Cal.Comp.Cases 1331 (writ den.); *City of Torrance v. Workers’ Comp. Appeals Bd. (Moore)* (2002) 67 Cal.Comp.Cases 948 (writ den.); or if it fails to specifically discuss the particular portion(s) of the record that support the petitioner’s contentions (e.g., *Moore, supra*, 67 Cal.Comp.Cases at p. 948; *Shelton v. Workers’ Comp. Appeals Bd.* (1995) 60 Cal.Comp.Cases 70 (writ den.)). The Petition for Reconsideration filed herein fails to substantiate the claims of fraud and bias it alleges. Therefore it is subject to dismissal or denial.

Moreover, we have given the WCJ’s credibility determinations great weight because the WCJ had the opportunity to observe the demeanor of the witnesses. (*Garza v. Workmen’s Comp. Appeals Bd.* (1970) 3 Cal.3d 312, 318-319 [35 Cal.Comp.Cases 500].) Furthermore, we conclude there is no evidence of considerable substantiality that would warrant rejecting the WCJ’s credibility determinations. (*Id.*)

Finally, we admonish defendant Harjit Bhabra for using offensive, inappropriate, and disrespectful language in the Affidavit in Support of Petition for Reconsideration of Fraudulent Decision Issued on January 13, 2021. We specifically object to the following language: “[the WCJ] practiced wilful [sic] fraud;” “willfully displayed extreme bias and prejudice toward defendant;” “violated her constitutional judicial Oath of Office that requires her to be impartial in all judicial proceedings;” and “[t]he reckless decision issued by [the WCJ] is clearly a FRAUD ON THE COURT and displaying bias against the defendants.” (See Lab. Code, § 5813; see also Cal. Code Regs., tit. 8, former § 10561(b)(9)(B), now § 10421(b)(9)(B) (eff. Jan. 1, 2020) [sanctionable conduct includes “using any language in any pleading or other document [...] [w]here the language or gesture impugns the integrity of the Workers’ Compensation Appeals

Board or its commissioners, judges, or staff”].) The failure to comply with the WCAB’s rules in the future may lead to the imposition of sanctions.

For the foregoing reasons,

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

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ DEIDRA E. LOWE, COMMISSIONER**

**I CONCUR,**

**/s/ CRAIG SNELLINGS, COMMISSIONER**

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



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

**April 9, 2021**

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

**JEROME TATE  
HARJIT BHAMBRA  
URIARTE & CARR  
BAY AREA LOGISTICS  
BAY AREA TRANSPORTATION  
THOMAS MAHAN AND ASSOCIATES  
OFFICE OF THE DIRECTOR LEGAL**

**PAG/pc**

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**

On February 8, 2021, uninsured employer, Bay Area Logistics Inc., Bay Area Transportation DBA Harjit Sing Bhambra, filed a petition for reconsideration from my finding that applicant was employed by Bay Area Logistics when he sustained an injury to his eye on October 7, 2005 and from my order approving compromise and release agreement.

**DISCUSSION**

This matter first came before me as a walk thru. I was asked to sign a notice of intent to approve compromise and release since the Uninsured Employer's Fund (UEF) and applicant's counsel reached a settlement agreement.

Notice of intent to approve compromise and release agreement was issued on July 8, 2019. On September 16, 2019, counsel for UEF requested in writing that I issue an order approving compromise and release since no objection was received from the uninsured employer, Bay Area Logistics Inc., Bay Area Transportation DBA Harjit Sing Bhambra.

On September 24, 2019 I issued an order approving compromise and release.

The uninsured employer filed a petition for reconsideration from my order approving compromise and release on October 5, 2019. In its petition for reconsideration the uninsured employer alleged that applicant's date of injury postdated the termination of Bay Area Logistics Inc., Bay Area Transportation as a company. Because of Harjit Sing Bhambra's claim of lack of employment for applicant, Jerome Tate, I decided to set the order approving compromise and release aside on October 16, 2019 and set this matter for a hearing.

A hearing was scheduled before me on January 6, 2020. Harjit Sing Bhambra failed to appear at this hearing hence I issued another notice of intent to approve compromise and release.

Since Harjit Sing Bhambra objected to the notice of intent to approve this matter was set for another hearing but this time it was set for a trial with an order requiring Harjit Sing Bhambra to appear for 2/20/2020.

Harjit Sing Bhambra failed to appear on the day of trial (2/20/20), despite my order. I called him on the telephone to find out why he is not present and why he is objecting to the approval of the settlement document. Harjit Sing Bhambra was belligerent during the telephone conversation. Instead of being

apologetic for his failure to appear, he attacked the process I have followed to attempt to bring this case to a resolution.

In order to appease Harjit Sing Bhambra, I decided to continue the trial to another date. Since Harjit Sing Bhambra was unwilling to accept any of the dates I offered for a continued trial date, I simply set the matter for March 12, 2020 at 8:30 am. In order to make sure Harjit Sing Bhambra appeared for the March trial, I decided to issue a notice of intent to sanction him if he failed to appear.

Harjit Sing Bhambra and counsel for UEF did appear at the March 12, 2020 hearing. This time counsel for applicant failed to appear. I contacted applicant's counsel by email to ascertain his whereabouts. He advised me he was ill and unable to appear. I tried to explain to Harjit Sing Bhambra that I could not proceed forward with the trial without applicant's counsel being present. Once again Harjit Sing Bhambra became belligerent. I reset this matter for a trial to take place on July 28, 2020.

On July 13, 2020, 4 months after my last encounter with Harjit Sing Bhambra, a petition for disqualification was filed by him. Because of the petition for disqualification, the trial of July 28, 2020 was cancelled.

The petition for disqualification was denied hence the matter was reset for another trial for November 17, 2020. All parties attended the November 17, 2020.

On the day of trial I asked Harjit Sing Bhambra if he had any documentary evidence he would like to offer for me to consider before I issued my decision on the case. Harjit Sing Bhambra indicated that he had no documentary evidence since he did not realize he needed to bring some.

Applicant credibly testified about his employment relationship with Harjit Sing Bhambra and Bay Area Logistics. I had no reason to doubt applicant's testimony regarding his employment relationship.

Unfortunately I did not believe Harjit Sing Bhambra.

UEBTF and counsel for applicant had resolved this case initially on January 7, 2020. Harjit Sing Bhambra objected to approval of the settlement without ever presenting any relevant documentation to show that applicant was either not an employee or that Harjit Sing Bhambra did not own the business that applicant worked for on his date of injury.

## RECOMMENDATION

I recommend the Petition for Reconsideration filed by petitioner be ***DENIED.***

DATE: 03/03/2021

Lilla J Szelenyi

WORKERS' COMPENSATION ADMINISTRATIVE LAW JUDGE