

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

JUANITA PEEVY, *Applicant*

vs.

**COUNTY OF RIVERSIDE, permissibly self-injured;
administered by COUNTY OF RIVERSIDE, WORKERS' COMP DIVISION, *Defendants***

**Adjudication Number: ADJ19974681
Riverside District Office**

**OPINION AND ORDER
CORRECTING CLERICAL ERROR**

It has come to the Appeals Board's attention that its decision served January 10, 2025 contains a clerical error in the date upon which the decision was served. The decision includes an incorrect date of service of January 10, 2025 whereas the correct date of service should have been recited as February 10, 2025.

We will correct this clerical error without granting reconsideration, as such errors may be corrected without further proceedings at any time. (See 2 *Cal. Workers' Comp. Practice* (Cont. Ed. Bar, March 2019 Update) Supplemental Proceedings, § 23.74, p. 23-76.)

For the foregoing reasons,

IT IS ORDERED that the clerical error in the date of service of January 10, 2025 set forth in the Board's Opinion and Order Dismissing Petition for Reconsideration is **CORRECTED** to reflect the following **AMENDED** date of service: February 10, 2025.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER

/s/ JOSÉ H. RAZO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

February 13, 2025

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

**JUANITA PEEVY. IN PRO PER
MARCIE VALENTINE, COUNTY OF RIVERSIDE, WORKERS' COMP. DIVISION**

AS/kl

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

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

JUANITA PEEVY, *Applicant*

vs.

**COUNTY OF RIVERSIDE, permissibly self-insured;
administered by COUNTY OF RIVERSIDE, WORKERS' COMP. DIVISION, *Defendants***

**Adjudication Number: ADJ19974681
Riverside District Office**

**OPINION AND ORDER
DISMISSING PETITION FOR
RECONSIDERATION**

Applicant seeks reconsideration of the Stipulations with Request for Award (Stipulations) and the Award issued on October 31, 2024, where in pertinent part the workers' compensation judge (WCJ) awarded applicant further medical treatment and no permanent disability benefits. Applicant, in pro per, contends she had agreed to receive a settlement amount beyond just future medical treatment when settling her case and that she was deceived or misled by her case worker.

We have not received an Answer from Defendant. The WCJ prepared a Report and Recommendation on Petition for Reconsideration (Report), recommending that the Petition be denied or dismissed, and if appropriate be treated as a petition to set aside the Award and returned to the WCJ for further proceedings.

We have considered the allegations of the Petition for Reconsideration and the contents of the report of the WCJ with respect thereto. Based on our review of the record, for the reasons set forth in the Report and the reasons discussed below, we will dismiss reconsideration and return this matter to the WCJ to treat as a petition to set aside the Award.

FACTS

Applicant completed a DWC-1 Claim Form on December 14, 2023, regarding a claimed injury that occurred on December 5, 2023. The parties filed Stipulations on October 14, 2024. The parties stipulated that applicant sustained a specific injury on December 5, 2023, to her left wrist, hand, and fingers while working as an eligibility services clerk for defendant and that the injury caused temporary disability from December 12 to 14, 2023, for which indemnity was paid at \$739.93 per week. (Stipulations, pp. 6-7.) The parties further stipulated that there is a need for medical treatment to cure or relieve from the effects of the injury. (*Id.*, p. 7.) The parties also stipulated to the following:

THE PARTIES STIPULATE TO THE FOLLOWING RATING BASED ON THE MMI REPORT FROM DR. MICHAEL SONG DATED 6/5/2024.

NO INTEREST OR PENALTIES DUE IF AWARD IS PAID WITHIN 30 DAYS FROM THE DATE OF APPROVAL FROM THE WCAB JUDGE.

APPLICANT STIPS THAT NO PENALTIES ON THIS CLAIM HAVE BEEN INCURRED, HAVE ACCRUED OR ARE OWED BY DEFENDANT ON ANY SPECIES OF BENEFITS UP TO THE DATE OF ISSUANCE OF THE AWARD.

APPLICANT IS TO MAKE DEMAND PRIOR TO SEEKING MEDICAL TREATMENT EXCEPT IN AN EMERGENCY SITUATION. ONLY PARTS OF BODY INJURED ARE LISTED ON PAGE 5. OF THIS STIP AWARD.

APPLICANT TO TREAT WITHIN THE COUNTY OF RIVERSIDE MEDICAL PROVIDER NETWORK (MPN) WHEN APPLICABLE.

(*Id.*, p. 8.)

Applicant's Primary Treating Physician (PTP) Dr. Michael Song prepared a Permanent and Stationary report (PR-4) on June 7, 2024, that was submitted to the district office on October 14, 2024. Applicant filed a Qualified Medical Evaluator (QME) Waiver on October 3, 2024, that was also submitted on October 14, 2024.

On October 31, 2024, the WCJ issued the Award pursuant to the Stipulations, awarding applicant future medical treatment and thereby approving the stipulations in the Stipulations.

DISCUSSION

I.

Former Labor Code 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, Labor Code 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 Labor Code 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 December 12, 2024, and 60 days from the date of transmission is February 10, 2025. This decision is issued by or on February 10, 2025, so that we have timely acted on the petition as required by Labor Code section 5909(a).

Labor Code 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 act on a petition. Labor Code 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 workers' compensation administrative law judge, the Report was served on December 12, 2024, and the case was transmitted to the Appeals Board on December 12, 2024. 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 Labor Code section 5909(b)(1) because service of the Report in compliance with Labor Code section 5909(b)(2) provided them with actual notice as to the commencement of the 60-day period December 12, 2024.

II.

We observe that contract principles apply to settlements of workers' compensation disputes. The legal principles governing compromise and release agreements, and by extension, stipulations with request for award, are the same as those governing other contracts. (*Burbank Studios v. Workers' Co. Appeals Bd. (Yount)* (1982) 134 Cal.App.3d 929, 935 [47 Cal.Comp.Cases 832].) Stipulations between the parties must be interpreted to give effect to the mutual intention of the parties that existed at the time of contracting, so far as the same is ascertainable and lawful. (*County of San Joaquin v. Workers' Compensation Appeals Bd. (Sepulveda)* (2004) 117 Cal.App.4th 1180, 1184 [69 Cal.Comp.Cases 193], citing Civ. Code, § 1636.)

Labor Code section 5702 provides 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.)

As workers' compensation proceedings are informal, "there are certain safeguards in place to protect workers from unknowingly releasing their rights." (*Camacho v. Target Corp.* (2018) 24 Cal.App.5th 291, 301 [83 Cal.Comp.Cases 1014].) "To safeguard the injured worker from entering into unfortunate or improvident releases as a result of, for instance, economic pressure or bad advice, the worker's knowledge of and intent to release particular benefits must be established separately from the standard release language of the form." (*Claxton v. Waters* (2004) 34 Cal.4th

367, 373 [69 Cal.Comp.Cases 895]; see also *Camacho v. Target Corp.*, *supra*, 24 Cal.App.5th at p. 301.)

Some of the safeguards are included in WCAB Rule 10700:

(a) When filing a Compromise and Release or a Stipulations with Request for Award, the filing party shall file all agreed medical evaluator reports, qualified medical evaluator reports, treating physician reports, and any other that are relevant to a determination of the adequacy of the Compromise and Release or Stipulations with Request for Award that have not been filed previously.

(b) The Workers' Compensation Appeals Board shall inquire into the adequacy of all Compromise and Release agreements and Stipulations with Request for Award, and may set the matter for hearing to take evidence when necessary to determine whether the agreement should be approved or disapproved, or issue findings and awards.

(Cal. Code Regs., tit. 8, § 10700.) Further, section 5001 provides that no settlement is valid unless the Appeals Board or a WCJ approves the settlement. (*Camacho v. Target Corp.*, *supra*, 24 Cal.App.5th at p. 301.)

In the instant case, no application for adjudication was filed. The only medical reporting provided was the PR-4 report by PTP Dr. Song. (Cal. Code Regs., tit. 8, § 10700(a).) Moreover, there was no hearing; applicant did not testify and no exhibits were admitted into evidence. In her Petition for Reconsideration, applicant states that her case worker led her to believe that she would be receiving a cash award for her injuries of at least \$25,000.00 and not only an award of future medical treatment. She further stated that she wanted to be heard and “to tell the Judge her story.”

On this limited record, it was necessary for the WCJ to set the matter for a hearing to take evidence to determine whether the agreement should have been approved or not. (Cal. Code Regs., tit. 8, § 10700(b).) We note that the WCJ has a duty under the workers' compensation system to protect a injured worker from unknowingly releasing their rights. (*Camacho v. Target Corp.*, *supra*, 24 Cal.App.5th at p. 301.) The worker's knowledge of and intent to release particular benefits was not adequately established. (*Claxton v. Waters*, *supra*, 34 Cal.4th at p. 373; see also *Camacho v. Target Corp.*, *supra*, 24 Cal.App.5th at p. 301.)

III.

Additionally, the Appeals Board has continuing jurisdiction to “rescind, alter, or amend any order, decision, or award.” (Lab. Code, § 5803.) Whether “good cause” exists to set aside a settlement depends upon the facts and circumstances of each case. “Good cause” includes mutual mistake of fact, duress, fraud, undue influence, and procedural irregularities. (*Johnson v. Workmen's Comp. Appeals Bd.* (1970) 2 Cal. 3d 964, 975 [35 Cal. Comp. Cases 362]; *Santa Maria Bonita School District v. Workers' Comp. Appeals Bd. (Recinos)* (2002) 67 Cal.Comp.Cases 848, 850 (writ den.); *City of Beverly Hills v. Workers' Comp. Appeals Bd. (Dowdle)* (1997) 62 Cal.Comp.Cases 1691, 1692 (writ den.); *Smith v. Workers' Comp. Appeals Bd.* (1985) 168 Cal.App.3d 1160, 1170 [50 Cal. Comp. Cases 311].)

The Stipulations were signed by the parties and the WCJ issued the Award thereon on October 31, 2024, and applicant has now filed a petition with the Appeals Board in the first instance. Although applicant filed the petition as one for reconsideration, we treat it as a petition to set aside the Award; we also note that the petition may be considered as a timely petition to reopen applicant’s case. (*Sarabi v. Workers' Comp. Appeals Bd.* (2007) 151 Cal.App.4th 920, 925 [72 Cal.Comp.Cases 778]; *Rubio v. Workers' Comp. Appeals Bd. (Rubio)* (1985) 165 Cal.App.3d 196, 200-201 [50 Cal.Comp.Cases 160].)

There is no evidence in the record regarding what applicant understood about the stipulations, nor what applicant was told with respect to the adequacy of the settlement. Because no hearing was held, the WCJ did not have the opportunity to assess applicant’s understanding of the proposed agreement. Consequently, the record is insufficient, both as to the issue of whether applicant understood the terms of the settlement agreement and whether the settlement was adequate.

There must be a complete record for our review of the case. “[A] proper record enables any reviewing tribunal, be it the Board on reconsideration or a court on further appeal, to understand the basis for the decision.” (*Hamilton v. Lockheed Corporation* (2001) 66 Cal.Comp.Cases 473, 475 [2001 Cal. Wrk. Comp. LEXIS 4947] (Appeals Bd. en banc).) The Appeals Board’s record of proceedings is maintained in the adjudication file and consists of: the pleadings, minutes of hearing and summary of evidence, transcripts, if prepared and filed, proofs of service, evidence received in the course of a hearing, exhibits marked but not received in evidence, notices, petitions, briefs, findings, orders, decisions, and awards, and the arbitrator’s file,

if any; documents that are in the adjudication file but have not been received or offered in evidence are not part of the record of proceedings. (Cal. Code Regs., tit. 8, § 10803.)

For example, in *Cerrillo v. Home Depot* (Feb. 8, 2019, ADJ7726177) [2019 Cal.Wrk.Comp. P.D. LEXIS 48, *8], applicant contended that he was "'pressured and manipulated to settle by the I&A officer and the WCJ.'"¹ However, as there was no evidence or testimony admitted into the record regarding those allegations, the Appeals Board found that it was premature to decide the issue and returned the matter to the WCJ to consider the petition as one to set aside. (*Id.* at pp. *8-9.) Similarly, in *Fernandez v. MBM Corp.*, (June 13, 2017, ADJ10199969) [2017 Cal.Wrk.Comp. P.D. LEXIS 264, *8], there was no record regarding applicant's state of mind when he executed the settlement. If he did not understand that he was relinquishing his right to pursue the section 132a claim, the Appeals Board found that this may constitute good cause to set aside the Order Approving the C&R. (*Id.*)

Finally, all parties in workers' compensation proceedings retain their fundamental right to due process and a fair hearing under both the California and United States Constitutions. (*Rucker v. Workers' Comp. Appeals Bd.* (2000) 82 Cal.App.4th 151, 157-158 [65 Cal.Comp.Cases 805] (*Rucker*).) A fair hearing includes, but is not limited to, the opportunity to call and cross-examine witnesses; introduce and inspect exhibits; and to offer evidence in rebuttal. (*Gangwish v. Workers' Comp. Appeals Bd.* (2001) 89 Cal.App.4th 1284, 1295 [66 Cal.Comp.Cases 584]; *Rucker, supra*, 82 Cal.App.4th at pp. 157-158, citing *Kaiser Co. v. Industrial Acc. Com.* (1952) 109 Cal.App.2d 54, 58 [17 Cal.Comp.Cases 21]; *Katzin v. Workers' Comp. Appeals Bd.* (1992) 5 Cal.App.4th 703, 710-712 [57 Cal.Comp.Cases 230].)

¹ Panel decisions are not binding precedent (as are en banc decisions) on all other Appeals Board panels and workers' compensation judges. (See *Gee v. Workers' Comp. Appeals Bd.* (2002) 96 Cal.App.4th 1418, 1425 fn. 6 [67 Cal.Comp.Cases 236].) While not binding, the WCAB may consider panel decisions to the extent that it finds their reasoning persuasive. (See *Guitron v. Santa Fe Extruders* (2011) 76 Cal.Comp.Cases 228, fn. 7 (Appeals Board en banc).) We find the reasoning in *Cerrillo* and *Fernandez* persuasive given that the case currently before us involves similar legal issues.

Accordingly, we will dismiss the Petition as premature, and return this matter to the trial level. Upon return of this matter to the trial level, we recommend that the WCJ treat the Petition as a petition to set aside and set a hearing so applicant can provide evidence in support of the arguments contained in the Petition and create a record upon which a decision can be made by the WCJ. After the WCJ issues a decision, either party may then timely seek reconsideration of that decision.

For the foregoing reasons,

IT IS ORDERED that the Petition for Reconsideration of the October 31, 2025 Award is **DISMISSED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER

/s/ JOSÉ H. RAZO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

January 10, 2025

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

**JUANITA PEEVY. IN PRO PER
MARCIE VALENTINE, COUNTY OF RIVERSIDE, WORKERS' COMP. DIVISION**

JMR/mc

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