

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

LACADIA HARTMAN, *Applicant*

vs.

**VITAS HEALTHCARE CORPORATION; SENTRY CASUALTY COMPANY,
*Defendants***

**Adjudication Number: ADJ20774534
Riverside District Office**

**OPINION AND ORDER
DISMISSING PETITION
FOR RECONSIDERATION**

Applicant seeks removal in response to the Order Approving Compromise and Release (OACR), issued by the workers' compensation administrative law judge (WCJ) on July 17, 2025.

Applicant contends that she was unaware of a utilization review (UR) determination approving her request for medical treatment when she entered into the Compromise and Release (C&R) but that defendant signed the C&R after the UR determination so that good cause exists to set aside the OACR.

We have not received an Answer from defendant.

The WCJ issued a Report and Recommendation on Petition for Reconsideration (Report) recommending that the Petition be dismissed or denied.

We have considered the allegations in the Petition and the contents of the Report with respect thereto.

Based on our review of the record, and as discussed below, we will treat the Petition as one for reconsideration and we will dismiss it as premature and return this matter to the trial level for consideration of the Petition as one to set aside the OACR.

BACKGROUND

We will briefly review the relevant facts.

Applicant claimed injury to her neck and shoulder while employed by defendant as a licensed practical vocational nurse on April 29, 2024.

Applicant and defendant entered into a C&R resolving her claimed injury to her neck and shoulder. (C&R, ¶ 1, p. 3.)

On July 10, 2025, applicant and her attorney signed the C&R.

On July 15, 2025, attorney for defendant signed the C&R.

On July 16, 2025, the C&R was presented to the WCJ for approval at a walk-through hearing. Applicant was not present. (Walk-through appearance sheet, July 16, 2025, p. 1.) The WCJ approved the C&R, designating defendant's hearing representative to serve the OACR on all parties. (OACR, p. 1.)

On July 17, 2025, defendant's attorney served defendant and applicant's attorney, however applicant was not served.¹ (Proof of service for OACR and walk-through appearance sheet, p. 1.).

On July 30, 2025, applicant's attorney filed a request to withdraw the OACR as follows:

We respectfully request the withdrawal of the Order Approving Compromise and Release in the matter of Lacadia Hartman, ADJ20774534.

The applicant received authorization for surgery for her right shoulder after signing the settlement documents. Given this development, and the applicant's desire to proceed with the authorized surgery, which was not approved previously, Ms. Hartman requests that the settlement be withdrawn to accommodate this change in circumstances.

Additionally, the applicant's attorney was not served with the medical report, or the RFA for the July evaluation prior to settlement. Nor were we made aware that there was a Utilization Review request for authorization for the surgery. Had the applicant's attorney received the authorization for surgery the settlement would not have been advised.

On August 5, 2025, applicant filed a Petition for removal.

DISCUSSION

I.

Former Labor Code section² 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:

¹ Contrary to WCAB Rules regarding filing and service of documents, applicant was not served with the OACR. (Cal. Code Regs., tit. 8, §§ 10610, 10615, 10625.)

² All statutory references are to the Labor Code unless otherwise stated.

(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 Events, the case was transmitted to the Appeals Board on August 12, 2025, and 60 days from the date of transmission is Saturday, October 11, 2025. The next business day that is 60 days from the date of transmission is Monday, October 13, 2025. (See Cal. Code Regs., tit. 8, § 10600(b).)³ This decision is issued by or on Monday, October 13, 2025, 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 act on a petition. Section 5909(b)(2) provides that service of the Report shall be notice of transmission.

Here, according to the proof of service for the Report by the WCJ, the Report was served on August 12, 2025, and the case was transmitted to the Appeals Board on August 12, 2025. 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

³ WCAB Rule 10600(b) (Cal. Code Regs., tit. 8, § 10600(b)) states that:

Unless otherwise provided by law, if the last day for exercising or performing any right or duty to act or respond falls on a weekend, or on a holiday for which the offices of the Workers’ Compensation Appeals Board are closed, the act or response may be performed or exercised upon the next business day.

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 August 12, 2025.

II.

If a decision includes resolution of a “threshold” issue, then it is a “final” decision, whether or not all issues are resolved or there is an ultimate decision on the right to benefits. (*Aldi v. Carr, McClellan, Ingersoll, Thompson & Horn* (2006) 71 Cal.Comp.Cases 783, 784, fn. 2 (Appeals Bd. en banc).) 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. (*Maranian v. Workers’ Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1070, 1075 [65 Cal.Comp.Cases 650].) Threshold issues include, but are not limited to, the following: injury AOE/COE, jurisdiction, the existence of an employment relationship, and statute of limitations issues. (See *Capital Builders Hardware, Inc. v. Workers’ Comp. Appeals Bd. (Gaona)* (2016) 5 Cal.App.5th 658, 662 [81 Cal.Comp.Cases 1122].) Here, the OACR is a final order because it resolves applicant’s claim to all benefits for her injury. Thus, for the purpose of this opinion, we will treat applicant’s Petition as one for reconsideration.

III.

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.* (1982) 134 Cal.App.3d 929, 935.) For a compromise and release agreement to be effective, the necessary elements of a contract must exist, including an offer of settlement of a disputed claim by one of the parties and an acceptance by the other. (*Id.*) There can be no contract unless there is a meeting of the minds and the parties mutually agree. (Civ. Code, §§ 1550, 1565; *Sackett v. Starr* (1949) 95 Cal.App.2d 128; *Sieck v. Hall* (1934) 139 Cal.App. 279, 291.) Moreover, there is no contract unless the parties agree upon the same thing in the same sense. (Civ. Code, § 1580; *American Can Co. v. Agricultural Ins. Co.* (1909) 12 Cal.App. 133, 137.) A contract must be so interpreted as to give effect to the mutual intention of the parties as it existed at the time of contracting, so far as the same is ascertainable and lawful. (Civ. Code,

§ 1636; *County of San Joaquin v. Workers' Compensation Appeals Bd. (Sepulveda)* (2004) 117 Cal.App.4th 1180, 1184 [69 Cal.Comp.Cases 193].)

“A stipulation is ‘An agreement between opposing counsel ... ordinarily entered into for the purpose of avoiding delay, trouble, or expense in the conduct of the action,’ (Ballentine, Law Dict. (1930) p. 1235, col. 2) and serves ‘to obviate need for proof or to narrow range of litigable issues’ (Black’s Law Dict. (6th ed. 1990) p. 1415, col. 1) in a legal proceeding.” (*County of Sacramento v. Workers' Comp. Appeals Bd. (Weatherall)* (2000) 77 Cal.App.4th 1114, 1118 [65 Cal.Comp.Cases 1].) Stipulations are binding on the parties unless, on a showing of good cause, the parties are given permission to withdraw from their agreements. (*Weatherall, supra*, at 1121.)

To determine whether there is good cause to rescind awards and stipulations, the circumstances surrounding their execution and approval must be assessed. (See Lab. Code, § 5702; *Weatherall, supra*, 1118-1121; *Robinson v. Workers' Comp. Appeals Bd.* (1987) 194 Cal.App.3d 784, 790-792 [52 Cal.Comp.Cases 419]; *Huston v. Workers' Comp. Appeals Bd.* (1979) 95 Cal.App.3d 856, 864-867 [44 Cal.Comp.Cases 798].) “Good cause” to set aside an order or stipulations depends upon the facts and circumstances of each case. “Good cause” includes, but is not limited to, 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]; *Smith v. Workers' Comp. Appeals Bd.* (1985) 168 Cal.App.3d 1160, 1170 [50 Cal.Comp.Cases 311].)

We note that while the parties may stipulate to the facts in controversy, the WCJ is not bound by the parties’ stipulations and may make further inquiry into the matter “to enable it to determine the matter in controversy.” (Lab. Code, § 5702; see also *Weatherall, supra*, at 1119; *Turner Gas Co. v. Workers' Comp. Appeals Bd. (Kinney)* (1975) 47 Cal.App.3d 286 [40 Cal.Comp.Cases 253].) However, WCAB Rule 10835 provides that no finding shall be made contrary to a stipulation of the parties without giving the parties notice and an opportunity to be heard. (Cal. Code Regs., tit. 8, § 10835.)

Moreover, “[t]he 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(b).) This inquiry should carry out the legislative objective of safeguarding the injured worker from

entering into unfortunate or improvident releases as a result of, for instance, economic pressure or lack of competent advice. (*Claxton v. Waters* (2004) 34 Cal.4th 367, 373 [69 Cal.Comp.Cases 895]; *Sumner v. Workers' Comp. Appeals Bd.* (1983) 33 Cal.3d 965, 972-973.)

Here, applicant signed the C&R on July 10, 2025. Applicant's attorney states that the requested shoulder surgery was approved on or about July 14, 2025, *although neither applicant nor her attorney were served with the UR determination until August 1, 2025*. Applicant's attorney contends that if he had known that the shoulder surgery was approved, he would not have recommended settlement. Given that applicant settled all of her rights to medical treatment by way of the C&R, the cost of the approved surgery could significantly impact the value of applicant's case.

Defendant signed the C&R on July 15, 2025. In the C&R, defendant required that applicant waive her right to a qualified medical evaluator (QME) as a condition of settlement. While defendant's attorney may or may not have actually known that defendant's UR organization approved applicant's surgery before she signed the C&R, defendant's attorney is presumed to have knowledge of information that is readily available to her client. At a minimum, due diligence requires that she would have inquired before requiring applicant to settle her rights to medical treatment and waive her rights to a medical-legal evaluation. Moreover, this information was important to provide to the WCJ so that he could meaningfully evaluate whether the settlement was adequate.

Decisions of the Appeals Board "must be based on admitted evidence in the record." (*Hamilton v. Lockheed Corporation* (2001) 66 Cal.Comp.Cases 473, 476 (Appeals Bd. en banc) (*Hamilton*).) An adequate and complete record is necessary to understand the basis for the WCJ's decision and the WCJ shall ". . . make and file findings upon all facts involved in the controversy[.]" (Lab. Code, § 5313; *Blackledge v. Bank of America, ACE American Insurance Company* (2010) 75 Cal.Comp.Cases 613, 621.) As required by section 5313 and explained in *Hamilton*, "the WCJ is charged with the responsibility of referring to the evidence in the opinion on decision, and of clearly designating the evidence that forms the basis of the decision." (*Hamilton, supra*, at 475.) The purpose of this requirement is to enable "the parties, and the Board if reconsideration is sought, [to] ascertain the basis for the decision[.]" (*Hamilton, supra*, at 476, citing *Evans v. Workmen's Comp. Appeals Bd.* (1968) 68 Cal. 2d 753, 755 [33 Cal.Comp.Cases 350].) Here, at the time that the WCJ approved the C&R, information was available to defendant

that would affect the adequacy of the C&R, but it was not provided to applicant and was not provided to the WCJ. Consequently, although it may be that good cause exists to set aside the C&R, we are unable to evaluate the issue without an evidentiary record.

All parties to a workers' compensation proceeding retain the 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].) 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*, at 157-158, citing *Kaiser Co. v. Industrial Acci. Com. (Baskin)* (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 [57 Cal.Comp.Cases 230].)

Accordingly, we treat the Petition as one seeking reconsideration, dismiss the Petition as premature, and return the matter to the WCJ for further proceedings consistent with this opinion. Upon return of this matter to the trial level, we recommend that the WCJ treat the Petition as a petition to set aside, including setting a hearing to allow the parties to provide evidence and create a record upon which a decision can be made by the WCJ. After the WCJ issues a decision, any aggrieved person may then timely seek reconsideration of that decision.

For the foregoing reasons,

IT IS ORDERED that applicant's Petition for Reconsideration is **DISMISSED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ CRAIG L. SNELLINGS, COMMISSIONER

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

OCTOBER 10, 2025

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

**LACADIA HARTMAN
THE LAW OFFICES OF DR. PETER M. SCHAEFFER
LAW OFFICES OF STACEY L. TOKUNAGA**

JB/pm

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