WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

LINDA LEWIS ZAMBA, *Applicant*

vs.

BERKELEY UNIFIED SCHOOL DISTRICT, Permissibly Self-Insured, Adjusted by INTERCARE, *Defendants*

Adjudication Numbers: ADJ14649350, ADJ15672588, ADJ20293644
Oakland District Office

OPINION AND ORDER GRANTING PETITION FOR RECONSIDERATION AND DECISION AFTER RECONSIDERATION

Applicant seeks removal of the order taking the matter off calendar issued by the workers' compensation administrative law judge (WCJ) on June 12, 2025, and the findings and orders on the June 9, 2025 Minutes of Hearing (MOH), wherein the WCJ declined to order a re-evaluation of applicant by qualified medical evaluator (QME) Dr. Weiss; found that case number ADJ14649350 was previously settled by stipulation and award and that applicant's petition to reopen for new and further disability was "tolled/expired"; and that applicant's remaining two case numbers (ADJ15672588 and ADJ20293644) were "assigned in error/dismissed."

Applicant, proceeding in pro per, contends that the WCJ's findings as to the dismissal orders were in error and that she had injury to additional body parts so that the order that no re-evaluation would be conducted by Dr. Weiss is wrongly decided, and will result in irreparable harm to applicant.

We did not receive an Answer from defendant.

The WCJ filed a Report and Recommendation on Petition for Removal (Report) recommending that the Petition be denied.

We have considered the allegations of the Petition for Removal and the contents of the WCJ's Report with respect thereto. Based on our review of the record and as discussed below, we will treat applicant's Petition as one for reconsideration, grant applicant's Petition for

Reconsideration, rescind the WCJ's June 9, 2025 decision, and return this matter to the trial level for further proceedings consistent with this opinion.

BACKGROUND

I.

Applicant sustained a specific injury to her head and neck, and claimed injury to other body parts, on January 7, 2020, while working as an instructional technician for defendant Berkeley Unified School District. (ADJ14649350.) As explained below, two additional case numbers were assigned by the Oakland district office for the same date of injury. (ADJ15672588 and ADJ20293644.)

Applicant's claim of injury was resolved by way of Stipulations with Request for Award (Stipulations). The Stipulations identify defendant employer Berkeley Unified School District and third-party administrator Intercare Insurance Holdings, Inc., (Intercare) in Berkeley. In the Stipulations, applicant's head and cervical neck claims were accepted, her other body part claims were dismissed, applicant was granted future medical care for her headaches, and applicant was awarded permanent disability of $290 per week for twenty-one weeks. (6/16/22 Stipulations, at pp. 6-8.) The Stipulations included an advisement that applicant had five years from the date of injury to file a claim for new and further disability. (*Id*. at p. 8) On June 17, 2022, the WCJ issued an award listing ADJ14649350 as the case number. (6/17/22 Award.)

Case Number ADJ15672588

In case number ADJ15672588, it appears that the case was initiated when defendant filed the Stipulations with Request for Award as a case opening document on January 17, 2022. There are no other filings that are unique to this case number.

Events in the Electronic Adjudication Management System (EAMS) indicates that: on January 11, 2022 in Case Events, under Event Description is the phrase "Stip. Filed" and under Additional Information is the phrase "Erroneously entered event deleted"; and on February 18, 2022, in Case Events, under Event Description is the phrase "Case Closure" and under Additional Information is the phrase "Duplicate Case." It appears from Events that the case was reactivated by the district office on May 16, 2025, when the WCJ issued an order.

Case Number ADJ14649350

In case number ADJ14649350, also on January 17, 2022, defendant filed a cover sheet; three QME reports; a summary rating; and a proof of service dated July 6, 2021. On June 16, 2022,

defendant filed the Stipulations, with no case number listed. According to Events in EAMS, the first event listed is the filing of Stipulations on June 16, 2022.

On April 16, 2025, by way of a letter filed in ADJ14649350, defendant Intercare filed a response to the NIT, stating that it had not received the notices of hearing as the matter had previously been handled by "Intercare Roseville," and not "Intercare Pasadena." It further stated that applicant had three case numbers for the same date of injury and that ADJ15672588 and ADJ20293644 "appear to be duplicative and inconsistent with the medical documentation submitted," and requested that they "be voided as no new or separate claims have been filed to substantiate the creation of additional ADJ numbers." (4/16/25 Response to NIT.) Another basis for the opposition was that "the February 3, 2024" MSC took place before the filing of the Application; defendant implied that the district office had committed "a possible error in record-keeping or scheduling." Notably, while the document was filed by Intercare Roseville, the address listed for defendant on the letter is for the Eagan, MN office of Intercare.

Case Number ADJ20293644

In case number ADJ20293644, applicant filed an Application for Adjudication in pro per on December 23, 2024, identifying the Oakland district office as the venue and the same date of injury of January 7, 2020. (12/23/24 Application, at pp. 2-3.) The Application states in Paragraph 9 that the Application was filed due to a dispute about liability for medical expenses, and specifically for "pressure on forehead lesion/scar area not accepted with headaches as part of permanent disability." (*Id*. at p. 5.) The Application is hand-written and identifies defendant employer and defendant Intercare in Eagan, MN, as the workers' compensation insurer, and defendant Intercare in Eagan, MN, with the name of the adjustor, as the third-party administrator.

That same day, applicant filed a Declaration of Readiness (DOR) reiterating that the issue was "pressure on forehead lesion/scar area not accepted with headaches as part of permanent disability." She stated that: "I discussed matter with Dr. Weiss and her response was, she went along with opinion of Dr. Laura Scarioni first QME doctor's report. I was shaken-up @ the time and was tired of discussing issue." Applicant requested a mandatory settlement conference (MSC). (12/23/24 DOR, case number ADJ20293644.) Again, applicant's DOR is hand-written, but the hand-written case number appears to have been entered subsequently.

A proof of service, dated December 23, 2024, lists the Information & Assistance Office at the Oakland district office, Intercare in Eagan, MN, and QME Dr. Weiss. The documents served are not identified. The proof of service is filed with both the Application and the DOR.

On February 3, 2025, applicant appeared at the MSC, but defendant did not. According to Communications in EAMS, notice of the conference was sent to "Intercare Pasadena." The WCJ continued the MSC.

On March 24, 2025, applicant appeared at the MSC, but defendant did not. According to Communications in EAMS, notice of the conference was sent to "Intercare Pasadena." The WCJ took the matter off calendar.

That same day, the WCJ issued a Notice of Intent (NIT) to Impose Sanctions on defendant, for defendant's failure to appear at the February 3 and March 24, 2025 MSCs. (3/24/25 NIT.)

A sanctions order was issued May 1, 2025. (5/1/25 Order Imposing Sanctions.)

II.

On May 6, 2025, defendant Intercare filed a response by way of a letter to the Sanctions Order in all three cases, indicating that its response to the NIT was filed under the incorrect case number, resulting in the issuance of the Sanctions Order. It alleged that ADJ14649350 was the correct case number and that both ADJ15672588 and ADJ20293644 "appear to have been set up by the WCAB based on duplicative application filing by the applicant acting *in propria persona*." It again requested dismissal of the two cases. (5/5/25 Response to Order Imposing Sanctions.) Notably, while the document was filed by Intercare Roseville, the address listed for defendant on the letter is for the Eagan, MN office of Intercare.

On May 16, 2025, the WCJ issued an Order Vacating the May 1, 2025 Order Imposing Sanctions and Order Setting Cases for Status Conference. (5/16/25 Order.) This order was the first document issued by the WCJ that included all three case numbers.[1] In it, the WCJ found:

> **IT APPEARING THAT:** (1) an Order Imposing Sanctions was issued by the undersigned without knowledge that as many as three separate applications have been filed for the same date of injury, resulting in three case numbers being assigned for the same date of injury (ADJ20293644, ADJ15762588 and ADJ1464935); (2) an Award of permanent disability and further medical treatment issued on June 16, 2022 in ADJ14644935 only; and (3) the hearing notices, the

[1] The issuance of this order is likely the trigger for the reactivation of closed case ADJ15672588.

> Notice of Intention to Impose Sanctions, and the Order Imposing Sanctions in ADJ20293644 may not have been properly served on defendant…

(*Ibid*.)

The WCJ vacated the sanctions order and ordered "that all three of these cases are to be set for Status Conference on notice to further address these issues." (*Ibid*.) Notably, applicant and defendants Berkeley Unified and Intercare Pasadena were served with the order.

On June 9, 2025, the parties appeared for the status conference. (6/9/25 MOH.) Applicant was present, representing herself; defendant Intercare also appeared. (*Ibid*.) No issues were framed for trial, no evidence was admitted, and no testimony was taken. The matter was taken off calendar, with a notation on the minutes that there were "no issues pending." (*Ibid*.) The minutes stated:

> Re-evaluation with QME-Dr. Weiss is not Ordered. ADJ14649350 settled via Stip/Award 06/16/2022. N & F tolled/expired. ADJ20293644 assigned in error/dismissed. ADJ15672588 assigned in error/dismissed. All matters/issues resolved.

(*Ibid*.)

Applicant's Petition for Removal was timely filed in response. Applicant alleges that the body part of headaches was found to be industrial by the QMEs and injury to her right brow should have been included but the QME dismissed it as minor.

She incorporates by reference a June 13, 2025 email to the WCJ, wherein she alleges that the Information & Assistance Officer provided her with advice as to which forms to complete and that she explained to the Information & Assistance Officer that she had injury to her right brow as a result of the January 7, 2020 injury and that it should have been included. She also requests that her name be corrected to "Linda Lewis."

DISCUSSION

I.

As a preliminary matter, 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 Board 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 arising out of and in the course of employment, 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 underlying order of dismissal of two of applicant's three cases determined a "threshold" issue, e.g., that applicant's claim for benefits under those case numbers is foreclosed and that applicant's petition to reopen for new and further disability was "tolled/expired"[2]. Thus, we will treat applicant's petition as one for reconsideration.

II.

Former Labor Code section 5909[3] 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.

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 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."

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[2] By way of clarification, tolling of a statute is commonly understood to apply when a statute of limitations is extended. Thus, expiration of the statute of limitations and tolling of the statute of limitations are mutually exclusive.

[3] All section references are to the Labor Code, unless otherwise indicated.

Here, according to Events, the case was transmitted to the Appeals Board on July15, 2025 and 60 days from the date of transmission is Saturday, September 13, 2025. The next business day that is 60 days from the date of transmission is Monday, September 15, 2025. (See Cal. Code Regs., tit. 8, § 10600(b).)[4] This decision is issued by or on Monday, September 15, 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 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 July15, 2025, and the case was transmitted to the Appeals Board on July15, 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 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 July15, 2025.

III.

Pursuant to section 5410, an injured worker who has previously received workers' compensation benefits either voluntarily paid by the employer or pursuant to an award is entitled to claim benefits for "new and further disability" within five years of the date of injury. (*Sarabi v. Workers' Comp. Appeals Bd*. (2007) 151 Cal.App.4th 920, 925 [72 Cal.Comp.Cases 778].) If a petition to reopen is filed within the five-year period, the Board has jurisdiction to decide the matter beyond the five-year period. (*Ibid*.)

Section 5410 provides:

> Nothing in this chapter shall bar the right of any injured worker to institute proceedings for the collection of compensation within five years after the date of the injury upon the ground that the original injury has caused new and further

[4] 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.

> disability. The jurisdiction of the appeals board in these cases shall be a continuing jurisdiction within this period. This section does not extend the limitation provided in Section 5407.

(Lab. Code, § 5410.)

Workers' Compensation Appeals Board (WCAB) Rule 10536 provides, in relevant part, that "the jurisdiction of the Workers' Compensation Appeals Board under Labor Code section 5410 shall be invoked by a petition setting forth specifically and in detail the facts relied upon to establish new and further disability." (Cal. Code Regs., tit. 8, § 10536.) However, "our Supreme Court has held that very broad or general petitions are sufficient." (*Sarabi*, *supra*, 151 Cal.App.4th at p. 925, citing *Bland v. Workers' Comp. Appeals Bd.* (1970) 3 Cal.3d 324, 329 [in light of the "strong policy" in favor of liberal treatment of disability claims, petition to reopen asking the Board to " 'take such steps as may be necessary to a redetermination of this matter' " is sufficient].)

To recover additional benefits, the injured worker must not only file a timely petition to reopen but must also have suffered a "new and further disability" within that five-year period, unless there is otherwise "good cause" to reopen the prior award. (*Applied Materials v. Workers' Comp. Appeals Bd*. (2021) 64 Cal.App.5th 1042, 1080 [86 Cal.Comp.Cases 331], citing *Sarabi*, *supra*, 151 Cal.App.4th at p. 926.) "New and further disability" means disability resulting from some demonstrable change in the employee's condition, including a gradual increase in disability, a recurrence of TD, a new need for medical treatment, or the change of a temporary disability into a permanent disability. (*Ibid*.) California case law has applied section 5410 to cases involving new and further disability to the *original body part* (e.g., *Sarabi*, *supra*, 151 Cal.App.4th at pp. 922-923, 926-927 [industrial injury to right shoulder with additional claimed period of temporary disability related to worsening condition and need for further surgery on right shoulder]) or injury to a *new body part* which is alleged as a compensable consequence of the original injury. (See *Southern California Rapid Transit Dist., Inc. v. Workers' Comp. Appeals Bd.* (*Weitzman*) (1979) 23 Cal.3d 158 [44 Cal.Comp.Cases 107] [employee injured in car accident on the way home from delivering required work release note for prior compensable injury]; *Liberty Mutual Ins. Co. v. Industrial Accident Com.* (*Walden*) (1964) 231 Cal.App.2d 501, 504, [29 Cal.Comp.Cases 293] [development of asthma found to be directly attributable to industrial injury to the back].)

Code of Civil Procedure section 452 requires that, "[i]n the construction of a pleading, for the purpose of determining its effect, its allegations must be liberally construed, with a view to

substantial justice between the parties." (Cal. Code Civ. Proc., § 452.) The workers' compensation system "was intended to afford a simple and nontechnical path to relief." (*Elkins v. Derby* (1974) 12 Cal.3d 410, 419 [39 Cal.Comp.Cases 624].) "[I]t is an often-stated principle that the Act disfavors application of formalistic rules of procedure that would defeat an employee's entitlement to rehabilitation benefits." (*Martino v. Worker's Comp. Appeals Bd.* (2002) 103 Cal.App.4th 485, 490 [67 Cal.Comp.Cases 1273].) Informality of pleadings in workers' compensation proceedings before the Appeals Board has long been recognized, and courts have repeatedly rejected pleading technicalities as grounds for depriving the Board of jurisdiction. (*Rubio v. Workers' Comp. Appeals Bd.* (1985) 165 Cal.App.3d 196, 200 [50 Cal.Comp.Cases 160]; *Liberty Mutual Ins. Co. v. Workers' Comp. Appeals Bd.* (1980) 109 Cal.App.3d 148, 152-153 [45 Cal.Comp.Cases 866]; *Zurich Ins. Co. v. Workers' Comp. Appeals Bd.* (1973) 9 Cal.3d 848, 852 [38 Cal.Comp.Cases 500]; *Bland v. Worker's Comp. Appeals Bd., supra,* 3 Cal.3d at pp. 328-334 [35 Cal.Comp.Cases 513].) Moreover, section 5709 states that "[n]o informality in any proceeding or in the manner of taking testimony shall invalidate any order, decision, award, or rule made and filed as specified in this division …" (Lab. Code, § 5709.) "Necessarily, failure to comply with the rules as to details is not jurisdictional." (*Rubio, supra*, at p. 201.) WCAB Rule 10517 specifies that pleadings are "deemed amended to conform to the stipulations and statement of issues agreed to by the parties on the record" and that pleadings may be amended by the Appeals Board to conform to proof. (Cal. Code Regs., tit. 8, § 10517.) In particular, courts have recognized that petitions to reopen may be informal so long as the pleading provides an indication that an applicant wishes to pursue their case. In *Beaida v. Workers' Comp. Appeals Bd.* (1968) 263 Cal.App.2d 204, 207-210 [33 Cal.Comp.Cases 345], the Court explained that:

> "Labor Code section 5410 permits an injured employee to institute proceedings for additional compensation upon the ground that the original injury has caused 'new and further disability.' It vests WCAB with jurisdiction to make the award if the injured employee institutes proceedings within five years of the injury date. (*Sutton v. Industrial Acc. Com.*, 46 Cal.2d 791, 794 [298 P.2d 857].) A broader proceeding is available under sections 5803 and 5804, which authorize WCAB to amend an award upon a good cause where the disability has recurred or increased."

(See also *Sarabi, supra,* 151 Cal.App.4th at pp. 925-926.)

Here, the parties stipulated that applicant's injury was sustained on January 7, 2020. (6/16/22 Stipulations**.**) Applicant's Application in case number ADJ20293644 was filed on December 23, 2024, less than five years from the date of injury. Accordingly, the December 23,

2024 Application timely invoked the continuing jurisdiction of the WCAB. (Lab. Code, § 5410; Cal. Code Regs., tit. 8, § 10536.) Once invoked, the jurisdiction granted the WCAB by section 5410 continues until such time as the underlying petition is resolved.

Moreover, although the December 23, 2024 Application did not explicitly state that it was a Petition to Reopen, it clearly indicated that compensation had been paid, that applicant was claiming injury for additional body parts not compensated by the prior Stipulations, and that applicant had disputes with defendant regarding liability for reimbursement of medical expenses as well as liability for "pressure on forehead lesion/scar area not accepted with headaches as part of permanent disability." (12/23/24 Application, at pp. 4-5, case number ADJ20293644.) We are required to liberally construe the allegations in a petition, with a view to substantial justice between the parties. (Cal. Code Civ. Proc., § 452.) Thus, we conclude that applicant's December 23, 2024 Application was intended to serve as a Petition to Reopen pursuant to section 5410, and we will treat applicant's Application as a timely filed Petition to Reopen for New and Further Disability.

IV.

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 is "one of 'the rudiments of fair play' assured to every litigant...." (*Id.* at p. 158.) As stated by the Supreme Court of California in *Carstens v. Pillsbury*, "the commission ...must find facts and declare and enforce rights and liabilities, - in short, it acts as a court, and it must observe the mandate of the constitution of the United States that this cannot be done except after due process of law." (*Carstens v. Pillsbury* (1916) 172 Cal. 572, 577.) A fair hearing includes, but is not limited to, the opportunity to call and cross-examine witnesses, introduce and inspect exhibits, and offer evidence in rebuttal. (See *Gangwish v. Workers' Comp. Appeals Bd.* (2001) 89 Cal.App.4th 1284, 1295 [66 Cal.Comp.Cases 584].)

Section 5313 requires the WCJ to "make and file findings upon all facts involved in the controversy and [make and file] an award, order, or decision stating the determination as to the rights of the parties … [and include] a summary of the evidence received and relied upon and the reasons or grounds upon which the determination was made." (Lab. Code, § 5313.) The WCJ's decision "must be based on admitted evidence in the record" (*Hamilton v. Lockheed Corporation* (*Hamilton*) (2001) 66 Cal.Comp.Cases 473, 478 (Appeals Bd. en banc)), and the decision must be

supported by substantial evidence. (Lab. Code, §§ 5903, 5952(d); *Lamb v. Workmen's Comp. Appeals Bd.* (1974) 11 Cal.3d 274 [39 Cal.Comp.Cases 310]; *Garza v. Workmen's Comp. Appeals Bd.* (1970) 3 Cal.3d 312 [35 Cal.Comp.Cases 500]; *LeVesque v. Workers' Comp. Appeals Bd.* (1970) 1 Cal.3d 627 [35 Cal.Comp.Cases 16].) In *Hamilton*, we held that the record of proceedings must contain, at a minimum, "the issues submitted for decision, the admissions and stipulations of the parties, and the admitted evidence." (*Hamilton*, *supra*, at p. 475.)

Here, the June 9, 2025 proceeding was a status conference, during which no documentary evidence was admitted and no testimony was heard, and where the matter was taken off calendar. (6/9/25 MOH.) We cannot affirm the June 9, 2025 decision because, in addition to the order taking the matter off calendar, the WCJ issued additional findings and orders, including a finding that applicant's Petition to Reopen was "tolled/expired," an order that no new medical evaluation of applicant would be conducted, and orders dismissing two of applicant's cases when neither the December 23, 2024 Petition to Reopen, nor any other relevant documents, had been considered and/or admitted into evidence. (*Ibid*.) In addition, the WCJ's findings and orders were made without an evidentiary hearing, thus denying applicant an opportunity to be heard prior to the WCJ's issuing these findings and orders. Due process requires that findings and orders must be based upon an adequate record, after providing the parties an opportunity to be heard. (Lab. Code, § 5313; *Hamilton*, *supra*, at p. 476; *Evans v. Workmen's Comp. Appeals Bd.* (1968) 68 Cal.2d 753, 755 [33 Cal.Comp.Cases 350, 351].) Those minimum standards were not met here. Moreover, the finding that applicant's Petition to Reopen was tolled and/or expired appears to be incorrectly decided, since the Petition to Reopen was filed within five years of the date of injury.

Since no exhibits were entered into evidence, no testimony under oath was admitted into the record, and there was no summary of the evidence received and relied upon, there is no evidence upon which we could base a decision. (Lab. Code, § 5313; *Hamilton*, *supra*, at p. 476; *Evans, supra,* at p. 755.) Without an evidentiary record, we are unable to determine whether the WCJ's decision is supported by substantial evidence, as required. (*Hamilton*, *supra*, at p. 476; Lab. Code, §§ 5903, 5952(d); *Lamb, supra,* at pp. 280-281.) Therefore, we return this matter to the trial level for the WCJ to conduct an evidentiary hearing, provide the parties with an opportunity to be heard, and create a record upon which a decision can be made.

We also observe that the multiple errors resulting in the creation of three duplicate case numbers appear to have been the fault of defendant and the district office, and not applicant. Upon

return, the WCJ should also identify the one active case number as the master file, ensure that all of the relevant documents are contained in that master file, and dismiss the two duplicate cases. That way applicant may adjudicate her Petition to Reopen, including as appropriate further medical evaluations by the QMEs to evaluate her claim of new and further disability. Finally, the district office should ensure that applicant is properly identified in EAMS as "Linda Lewis."

Accordingly, we grant applicant's Petition for Reconsideration, rescind the June 9, 2025 decision, and return this matter to the trial level for further proceedings consistent with this decision. When the WCJ issues a new decision, any aggrieved person may timely seek reconsideration.

For the foregoing reasons,

IT IS ORDERED that the Petition for Reconsideration of the June 9, 2025 decision is **GRANTED**.

IT IS FURTHER ORDERED, as the Decision After Reconsideration of the Workers' Compensation Appeals Board, that the June 9, 2025 decision is **RESCINDED** and this matter **RETURNED** to the trial level for further proceedings consistent with this decision.

WORKERS' COMPENSATION APPEALS BOARD

/s/ CRAIG SNELLINGS, COMMISSIONER

I CONCUR,

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER

/s/ JOSEPH V. CAPURRO, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

September 15, 2025

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

LINDA LEWIS ZAMBA
INTERCARE

MB/*ara*

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