

WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA

ABEL MANZO, *Applicant*

vs.

MEGGITT DEFENSE SYSTEMS, INC.;
HARTFORD ACCIDENT AND INDEMNITY, *Defendants*

Adjudication Number: ADJ16489247
Van Nuys District Office

OPINION AND ORDER
DISMISSING PETITION FOR
RECONSIDERATION

Defendant seeks reconsideration of the First Amended Order Approving Compromise and Release (OACR) issued by the workers' compensation administrative law judge (WCJ) on October 20, 2025.

Defendant requests rescission of the First Amended OACR and an issuance of an amended OACR that includes credit for the permanent disability advances (PDAs) in the amount of \$16,530 made to applicant. Defendant further requests an order staying the enforcement of the First Amended OACR without the accrual of penalties and interest until a final determination on reconsideration is rendered.

We have not received an Answer from applicant.

The WCJ issued a Report and Recommendation on Petition for Reconsideration (Report), recommending that we deny reconsideration.

We have considered the allegations of the Petition for Reconsideration (Petition) and the contents of the Report with respect thereto. Based on our review of the record, and as discussed below, we will dismiss the Petition as premature and return this matter to the WCJ for further proceedings consistent with this opinion.

FACTS

We will briefly review the relevant facts.

On July 29, 2022, applicant filed an Application for Adjudication of Claim (Application) claiming injury to his fingers, shoulders, nervous system-psych, and nervous system-stress while employed by defendant as an assembler tech from July 14, 2008 to July 27, 2022.

On September 12, 2022, applicant filed an Amended Application, adding the claimed body parts of the neck and head.

The parties entered into a settlement agreement by way of a Compromise and Release (C&R) to settle applicant's claimed injury.

On July 25, 2025, defendant electronically filed the C&R in the amount of \$40,000 to the WCJ for approval. The C&R reflects that there were no permanent disability advances to be deducted from the settlement amount. The WCJ approved the C&R and served the OACR on August 13, 2025.

On August 29, 2025, defendant filed a Petition to Set Aside OACR and requested a new OACR be issued. Defendant alleged that due to an inadvertent error, they did not include the credit for PDAs in the amount of \$16,530 in the C&R.

On September 23, 2025, applicant objected to defendant's Petition to Set Aside OACR.

Thereafter, the WCJ set the case for a status conference on October 8, 2025. After the hearing, the WCJ issued a First Amended OACR on October 20, 2025.

On October 28, 2025, defendant filed a Petition for Reconsideration of the First Amended OACR and Request to Stay Award without Penalties and Interest.

DISCUSSION

I.

Preliminarily, former Labor Code section 5909¹ 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.

¹ All section references are to the Labor Code, unless otherwise indicated.

(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 under the Events tab 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 November 17, 2025, and 60 days from the date of transmission is Friday, January 16, 2026. This decision was issued by or on January 16, 2026, 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 constitute notice of transmission.

Here, according to the proof of service for the Report, it was served on November 17, 2025, and the case was transmitted to the Appeals Board on November 17, 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 November 17, 2025.

II.

Subject to the limitations of Labor Code section 5804, “The appeals board has continuing jurisdiction over all its orders, decisions, and awards made and entered under the provisions of [Division 4]. . . At any time, upon notice and after the 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.” (Lab. Code, § 5803.)

Stipulations between the parties must be interpreted 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. (*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.) Stipulations are binding on the parties unless, on a showing of good cause, the parties are given permission to withdraw from their agreements. (*County of Sacramento v. Workers' Comp. Appeals Bd. (Weatherall)* (2000) 77 Cal.App.4th 1114, 1121 [65 Cal.Comp.Cases 1].) As defined in *Weatherall*, “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.” (*Weatherall, supra*, at 1118.)

Once it is determined that an agreement is final, the party seeking to set aside the agreement must make a showing of good cause. Good cause includes fraud, duress, undue influence, mutual mistake of fact, mistake of law, invalidity of execution, incompetency, or minority at the time of execution of the agreement. (See California Workers’ Compensation Law (Cont. Ed. Bar 4th Ed.) §§ 16.61 et seq.; see also *Argonaut Ins. Exch. v. Industrial Acc. Com.* (1958) 49 Cal.2d 706 [23 Cal.Comp.Cases 34]; *Smith v. Workers' Comp. Appeals Bd.* (1985) 168 Cal.App.3d 1160 [50 Cal.Comp.Cases 311]; *Carmichael v. Industrial Acc. Com.* (1965) 234 Cal.App.2d 311 [30 Cal.Comp.Cases 169]; *Silva v. Industrial Acc. Com.* (1924) 68 Cal.App. 510 [11 IAC 266]; *City of Beverly Hills v. Workers' Comp. Appeals Bd.* (1997) 62 Cal.Comp.Cases 1691 (writ den.); *Bullocks, Inc. v. Industrial Acc. Com.* (1951) 16 Cal.Comp.Cases 253 (writ den.); *Pac. Indem. Co. v. Industrial Acc. Com.* (1946) 11 Cal.Comp.Cases 117 (writ den.).) Whether good cause exists is case specific. The circumstances surrounding the execution and approval of the agreement must be assessed. (See § 5702; *Weatherall, supra*, 77 Cal.App.4th at pp. 1118-1121; *Robinson v. Workers' Comp. Appeals Bd.* (1987) 199 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].)

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].) Due process guarantees all parties the right to notice of hearing and a fair hearing. (*Id.*) A fair hearing includes the opportunity to call and cross-examine witnesses; introduce and inspect exhibits; and to offer evidence in rebuttal. (See *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.4 703, 710 [57 Cal.Comp.Cases 230].)

In the instant case, as the moving party, defendant has the burden of proof to show, by a preponderance of the evidence, they should be relieved from the C&R entered into with applicant. (See Lab. Code, § 5705 [the burden of proof rests upon the party with the affirmative of the issue]; see also Lab. Code, § 3202.5 ["All parties and lien claimants shall meet the evidentiary burden of proof on all issues by a preponderance of the evidence"].) Once defendant filed the Petition to Set Aside the OACR that was issued on August 12, 2025, the WCJ held a status conference that the parties attended on October 8, 2025. However, the WCJ failed to enter any testimony or evidence into a record at the hearing. Therefore, we cannot make a decision without giving the parties an opportunity to be heard and for the WCJ to create a complete record for our review.

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 (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.)

Decisions of the Appeals Board “must be based on admitted evidence in the record” (*Hamilton, supra*, at 476), and 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. Workmen’s Comp. Appeals Bd.* (1970) 1 Cal.3d 627 [35 Cal.Comp.Cases 16]). As required by Labor Code 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 p. 475.)

Accordingly, we dismiss the Petition for Reconsideration as premature and return the matter to the WCJ. Upon return of this matter to the trial level, the parties will have an opportunity to create a record, raise all relevant issues, and submit evidence upon which a decision can be made by the WCJ. After the WCJ issues a decision, any aggrieved party may timely seek reconsideration.

For the foregoing reasons,

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

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

I CONCUR,

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER

/s/ JOSEPH V. CAPURRO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

January 14, 2026

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

**ABEL MANZO
ESPINOZA LAW GROUP
SION & ASSOCIATES**

JL/abs

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