

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

BEATRIZ LOPEZ, *Applicant*

vs.

**ADP TOTALSOURCE GROUP, INC./STATELY MEN, INC.;
AIU INSURANCE COMPANY, *adjusted by*
HELMSMAN MANAGEMENT SERVICES, *Defendants***

**Adjudication Number: ADJ19086907
Marina Del Rey District Office**

**OPINION AND ORDER
GRANTING PETITION FOR
RECONSIDERATION
AND DECISION AFTER
RECONSIDERATION**

Defendant seeks reconsideration of the Order Approving Compromise and Release (OACR) issued by the workers' compensation administrative law judge (WCJ) on June 3, 2026, and served on the parties on June 12, 2026.

Defendant contends that the fully executed compromise and release (C&R) they filed for review and approval on behalf of the parties on May 8, 2026, contained errors with respect to temporary disability payments, specifically that defendant overpaid temporary disability indemnity, and they request that reconsideration be granted in order to amend the OACR to reflect a credit for overpaid temporary disability indemnity in the amount of \$2,419.30 or, in the alternative, return the matter to the trial level for further proceedings.

We have not received an Answer from applicant.

The WCJ issued a Report and Recommendation on Petition for Reconsideration (Report) recommending that the Petition be dismissed as untimely or, in the alternative, denied on the merits.

On July 16, 2026, defendant filed a First Amended C&R and on August 24, 2026, the parties filed a joint letter along with a fully executed proposed Second Amended C&R requesting approval of same, which we will treat as supplemental pleadings. (Cal. Code Regs., tit. 8, § 10964(a).)

We have considered the allegations in the Petition, the supplemental pleadings, and the contents of the WCJ's Report.

Based on our review of the record, and for the reasons discussed below, we will grant defendant's Petition, rescind the OACR, and return the matter to the WCJ for further proceedings, to include consideration of the proposed amended settlement documents.

I.

Up through July 1, 2024, petitions for reconsideration were subject to former Labor Code section¹ 5909, which 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.)

During the period from July 2, 2024 through June 30, 2026, petitions for reconsideration were subject to former Labor Code section 5909, which stated 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) (in effect from July 2, 2024 through June 30, 2026), 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 July 14, 2026, and 60 days from the date of transmission is Saturday, September 12, 2026. The next business day that is 60 days from the date of transmission is Monday, September 14, 2026. (See Cal. Code Regs., tit. 8, § 10600(b).)² This decision is issued by or on Monday, September 14, 2026, so that

¹ All statutory references are to the Labor Code unless otherwise stated.

² WCAB Rule 10600(b) (Cal. Code Regs., tit. 8, § 10600(b)) states that:

we have timely acted on the petition as required by section 5909(a) (in effect from July 2, 2024 through June 30, 2026).

Section 5909(b)(1) (in effect from July 2, 2024 through June 30, 2026) 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) (in effect from July 2, 2024 through June 30, 2026) 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 WCJ, the Report was served on July 14, 2026, and the case was transmitted to the Appeals Board on July 14, 2026. 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) (in effect from July 2, 2024 through June 30, 2026), because service of the Report in compliance with section 5909(b)(2) (in effect from July 2, 2024 through June 30, 2026) provided them with actual notice as to the commencement of the 60-day period on July 14, 2026.

II.

BACKGROUND

We will briefly review the relevant facts.

Applicant claimed injury to various body parts, including neck, back, bilateral hips, bilateral legs, bilateral lower extremities, and left knee while employed by defendant as quality control on January 18, 2024.

On May 8, 2026, defendant filed a fully executed Compromise and Release agreement signed by the parties, dated April 29, 2026.

The body parts identified in Paragraph No. 1 of the agreement are neck, back, bilateral hips, bilateral legs, bilateral lower extremities, and left knee. (C&R, April 29, 2026, ¶ 1, p. 3.)

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.

Under Paragraph No. 6, the field for “temporary disability indemnity paid” is blank, under which is written “All periods adequately compensated by this Agreement, according to proof.” (C&R, ¶ 6, p. 5.)

Pursuant to Paragraph No. 7, “[t]he parties agree to settle the above claim(s) on account of the injury(ies) by the payment of” \$50,000.00 and provides that “[t]he following amounts are to be deducted from the settlement amount....” Here, the only fields that contain information are “\$00.00 for permanent disability advances” and “\$7,500.00 requested as applicant’s attorney’s fee,” leaving a balance of \$42,500.00. The field for “for temporary disability indemnity overpayment, if any” is blank. (C&R, ¶ 7, p. 6.)

Paragraph No. 8 provides that “liens not mentioned in Paragraph No. 7 are to be disposed of as follows” In pertinent part, Paragraph No. 8 states:

Attorney fees of \$7,500.00 will be divided pursuant to written agreement as follows:

DiMarco, Araujo Montevideo	\$4,875.00
Hinden & Breslavsky	\$2,625.00

(C&R, ¶ 8, p. 6.)

The C&R is based on the following: the orthopedic QME of Dr. Edwin dated 9/15/2025. The reports of Dr. Germanovic dated 10/24/2025 and 12/12/2025. The report of Dr. Ellis Suh dated 8/23/2024. The applicant has reached maximum medical improvement per the 8/23/2024 report.

(C&R, ¶ 8, p. 6 (original in all caps).)

On May 8, 2026, in addition to filing the C&R for review, defendant filed a written agreement as to a prior attorney fee split, a copy of the claim denial letter, two medical reports by Dr. Edwin Ashley, M.D., and a letter by defendant requesting approval of the settlement. The letter explained, in part, that settlement was based upon the medical reporting of Dr. Edwin Ashley, Dr. Germanovic, and Dr. Ellis Suh.

On June 3, 2026, the WCJ issued an OACR and served defendant with the OACR. Defendant was designated to serve the OACR on all parties on the Official Address record.

On June 12, 2026, defendant filed a proof of service declaring that the OACR was served on the parties on June 12, 2026.

On June 30, 2026, defendant filed their Petition for reconsideration.

On July 14, 2026, the WCJ filed the Report.

On July 16, 2026, defendant submitted a first Amended C&R and a joint request for an Amended OACR.

On August 24, 2026, defendant filed a document titled Second Amended C&R along with jointly executed correspondence dated August 19, 2026, requesting that “[the] Appeals Board take action on the pending Petition... or in the alternative issue such order as is necessary to permit approval of the settlement.”

(Correspondence, Joint Request for Appeals Board Action, August 19, 2026, p. 1.).

III.

DISCUSSION

We preliminarily address the issue raised by the WCJ as to the timeliness of defendant’s Petition.

We observe that there are twenty (20) days allowed within which to file a petition for reconsideration from a “final” decision, plus five (5) calendar days if a party has been served by mail upon an address in California. (Lab. Code, §§ 5900(a), 5903; Cal. Code Regs., tit. 8, § 10605(a)(1).) This time limit is extended to the next business day if the last day for filing falls on a weekend or holiday. (Cal. Code Regs., tit. 8, § 10600.) In addition, if the party to be served is outside of California, but within the United States, the time in which to act is extended ten (10) calendar days from the date of service, or thirty (30) days total. (Cal. Code Regs., tit. 8, § 10605(a)(2).)

This time limit is jurisdictional and, therefore, the Appeals Board has no authority to consider or act upon an untimely petition for reconsideration. (*Maranian v. Workers’ Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1076 [65 Cal.Comp.Cases 650]; *Rymer v. Hagler* (1989) 211 Cal.App.3d 1171, 1182; *Scott v. Workers’ Comp. Appeals Bd.* (1981) 122 Cal.App.3d 979, 984 [46 Cal.Comp.Cases 1008]; *U.S. Pipe & Foundry Co. v. Industrial Acc. Com. (Hinojoza)* (1962) 201 Cal.App.2d 545, 549 [27 Cal.Comp.Cases 73].)

With respect to final orders, WCAB Rule 10629 permits the WCJ to designate a party or their attorney or agent in its discretion, to serve any order that is not required to be served by the WCAB in accordance with WCAB Rule 10628. (Cal. Code Regs., tit. 8 § 10629(a).) WCAB Rule 10628 requires service by the Appeals Board, and not by designated service, of any disputed issue after submission. Service is to be made upon the injured employee or any dependent(s) , as well

as all parties of record. (Cal. Code Regs., tit. 8 § 10628(a).) Thus, service can be delegated as to orders with respect to issues not in dispute, such as a settlement by either Stipulations with Request for Award or settlement by Compromise and Release, as is the case here.

Here, the WCJ served defendant with the OACR and designated defendant to serve the OACR on all parties of record, pursuant to WCAB Rule 10629(a).

Thus, while defendant was served with the OACR on June 3, 2026, service was not properly effectuated on the parties until June 12, 2026. Further, we note that service of defendant's adjusting agency was at an address outside of California. Accordingly, and to observe due process for all parties, we interpret WCAB Rule 10605 as extending the time to file for all parties after being properly served.

Defendant filed the Petition on June 30, 2026, which is less than 20 days after the June 12, 2026 service on the parties of the WCJ's OACR.

Accordingly, defendant's Petition is timely.

IV.

Subject to the limitations of section 5804, "[t]he 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.) An OACR is an order that may be rescinded, altered, or amended for "good cause" under section 5803.

Section 5001 provides that no settlement is valid unless the Workers' Compensation Appeals Board or a workers' compensation referee approves the settlement. (Lab. Code, § 5001; *Steller v. Sears, Roebuck & Co.* (2010) 189 Cal.App.4th 175, 180 [75 Cal.Comp.Cases 1146], see *Johnson v. Workmen's Comp. Appeals Bd.* (1970) 2 Cal.3d 964, 973 [35 Cal.Comp.Cases 362].)

"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(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.)

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 *County of Sacramento v. Workers' Comp. Appeals Bd. (Weatherall)* (2000) 77 Cal.App.4th 1114, 1119 [65 Cal.Comp.Cases 1]; *Turner Gas Co. v. Workers' Comp. Appeals Bd. (Kinney)* (1975) 47 Cal.App.3d 286 [40 Cal.Comp.Cases 253].)

We note that all of the medical reports upon which the C&R was based were not on file. As such, we are unable to evaluate the basis or adequacy of the OACR. Further, it appears that the parties have jointly requested further review of amended settlement documents, which, if found by the WCJ to supersede the initial C&R submitted for decision, would make the issue upon which reconsideration was requested, moot. Therefore, we must return this matter to the trial level for further proceedings.

Accordingly, we grant defendant's Petition, rescind the OACR, return the matter to the WCJ to consider the amended settlement documents, and to issue a new decision from which any aggrieved person may timely seek reconsideration.

We remind the parties that WCAB Rule 10700(a) requires that:

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.

(Cal. Code Regs., tit. 8, § 10700(a).)

For the foregoing reasons,

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

IT IS FURTHER ORDERED, as the Decision After Reconsideration of the Workers' Compensation Appeals Board, that the Order Approving Compromise and Release issued on June 3, 2026 and served on June 12, 2026, is **RESCINDED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ LISA A. SUSSMAN, DEPUTY COMMISSIONER

I CONCUR,

/s/ PAUL F. KELLY, COMMISSIONER



/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

SEPTEMBER 14, 2026

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

**BEATRIZ LOPEZ
DIMARCO, ARAUJO & MONTEVIDEO
ALBERT AND MACKENZIE
ELLIS SUH
PINNACLE LIEN SERVICES
HINDEN & BRESLAVSKY**

JB/pm

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