WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

BIBIANO PONCE PARRA, ***Applicant***

vs.

MASTER WASH, INC.; PREFERRED PROFESSIONAL INSURANCE COMPANY, administered by OMAHA NATIONAL UNDERWRITERS, ***Defendants***

Adjudication Numbers: ADJ16505110; ADJ17564259
Santa Ana District Office

OPINION AND ORDER GRANTING PETITION FOR RECONSIDERATION, DENYING PETITION FOR REMOVAL AND DECISION AFTER RECONSIDERATION

Defendant seeks removal and cost petitioner seeks reconsideration of the Joint Findings and Order (F&O), issued by the workers' compensation administrative law judge (WCJ) on January 6, 2026, wherein the WCJ found, in pertinent part, that: 1) cost petitioner Marjorie Martinez Interpreting is entitled to a Benefit Printout and Explanation of Reviews related to all interpreter payments on this case; 2) defendant did not act in bad faith related to the suppression of documents; 3) Cal. Code Regs. §9795.3(b)(2) applies in this matter; 4) defendant acted in bad faith or unreasonably delayed payment; therefore, no sanctions or attorney's fees are awarded. The WCJ thereafter issued an Order that defendant produce the Benefit Printout and Explanation of Reviews related to all interpreter payments on this case.

Defendant contends that the Order that defendant is to produce Explanations of Reviews (EOR) for all interpreter payments on this case will result in irreparable harm to defendant, and that granting cost petitioner the opportunity to perfect or amend their evidence and exhibits will result in significant prejudice to defendant, as does the failure of the WCJ to address whether cost petitioner is entitled to further payment.

Cost petitioner takes issue with Finding #6 in which the WCJ states that Cal. Code Regs., §9795.3(b)(2) applies in this matter, and asserts that settlement translations should be treated as legal services under Cal. Code Regs., §9795.3(b)(1).

We received Answers from cost petitioner and defendant.

The WCJ issued a Joint Report and Recommendation on defendant's Petition for Removal and defendant and cost petitioner's Petitions for Reconsideration (Report) recommending that the Petitions be denied.

We have considered the allegations in the Petitions, the Answers, and the contents of the Report. Based on our review of the record, and as discussed below, we will deny defendant's petition and grant cost petitioner's petition to find that cost petitioner is entitled to payment under Administrative Director (AD) Rule 9795.3(b)(1) and find that defendant is liable for an additional $175.00 in payment to cost petitioner, defer the issue of any sanctions, penalties, costs, interest, and attorney's fees, as well as whether defendant is ordered to produce the benefits printout for interpreting services, in this case, and return this matter to the WCJ for further proceedings consistent with this decision.

BACKGROUND

We will briefly review the relevant facts.

Applicant claimed to have sustained industrial injury while employed by defendant on March 15, 2022 as a detailer, to the neck, back, bilateral shoulders, bilateral elbows, left wrist, left forearm, left hand, legs, knees, and butt cheeks (ADJ17564259).

Applicant also claimed to have sustained a cumulative trauma injury to the neck, bilateral shoulders, bilateral arms, bilateral elbows, bilateral hands, back, bilateral hips, respiratory, bilateral eyes, psych, stress and depression while employed by defendant as a car washer/detailer, during the period from January 1, 2018 to May 29, 2022 (ADJ16505110).

On December 8, 2023, certified interpreter Marie Carmen Santiago (translator identification #301385) provided Spanish translation services for applicant at the reading and signing of the joint Compromise and Release (C&R) resolving both cases. The C&R was signed by both applicant and interpreter Ms. Santiago on December 8, 2023, in Riverside, California. (C&R, December 8, 2022, p. 8, Exhibit 1, 12/8/2023.)

On December 12, 2023, cost petitioner served defendant with an interpreting service invoice for half-day services provided as "COMPROMISE AND RELEASE(READING/TRANSLATING)" on December 8, 2023 in the amount of $350.00 and identified "CERTIFIED INTERPRETER: MARIE SANTIAGO CERTIFICATION #301385." Attached to the invoice was a copy of M.M.I. Interpreters market rate for 2021, documenting payments received from various claims administrators for their services. (Exhibit 2, 12/12/2023.)

On December 20, 2023, the WCJ issued a Joint Order Approving the Compromise and Release (OACR).

On January 3, 2024, defendant issued an Explanation of Review (EOR). The EOR reflects the December 8, 2023 C&R (half-day) charge of $350.00 was reduced $175.00 and provides the following explanation.

> Reduction Reasons: The change has been adjusted to allow payment based on CA Code of Regulations §9795.1.5 (a)(1) & (2). It also needs to reflect the Fees for Interpreter Services as outlined in §9795.3.
>
> 1. Documentation submitted does not comply with CA CCR §9795.1.5 (a)(1) & (2) or substantiate the service billed.
> 2. Market rate not established. Documentation does not list recent similar services and/or the amounts paid for those services.

(Exhibit A, 1/3/2024.)

On January 11, 2024, cost petitioner again served upon defendant their invoice and proof of market rate. (Exhibit 3, 1/11/2024.)

On May 19, 2025, cost petitioner filed a Petition for Labor Code[1] section 5811 costs and attorney's fees, along with a Notice To Produce Documents and a Declaration of Readiness to Proceed (DOR) to a status conference. (DOR, 5/19/2025, p.7.)

Thereafter, the matter proceeded to trial. On December 2, 2025, exhibits were offered and admitted into evidence, and the case stood submitted for decision.

On January 6, 2026, the WCJ issued the Joint F&O which both parties challenge.

[1] All further statutory references are to the Labor Code, unless otherwise noted.

DISCUSSION

I.

Preliminarily, we note that former 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, 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 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 February 9, 2026 and 60 days from the date of transmission is April 10, 2026. This decision is issued by or on April 10, 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 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 February 9, 2026, and the case was transmitted to the Appeals Board on February 9, 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) 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 February 9, 2026.

II.

We first address defendant's petition for removal. Defendant asserts that the order of the WCJ to produce discovery documents relevant to interpreter payments made in this case, and not yet deciding whether cost petitioner is entitled to additional payment, causes them to suffer significant prejudice and irreparable harm as cost petitioner will then be able to amend or perfect their claim. The order by the WCJ is a discovery order. As such, it is a non-final order, and does not determine any threshold issue.

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).) 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].) Failure to timely petition for reconsideration of a final decision bars later challenge to the propriety of the decision before the WCAB or court of appeal. (See Lab. Code, § 5904.) Alternatively, non-final decisions may later be challenged by a petition for reconsideration once a final decision issues.

Although the decision contains findings that are final, such as jurisdiction, petitioner is only challenging the interlocutory order relating to further discovery. Therefore, we will apply the removal standard to our review. (See *Gaona*, *supra*.)

Removal is an extraordinary remedy rarely exercised by the Appeals Board. (*Cortez v. Workers' Comp. Appeals Bd.* (2006) 136 Cal.App.4th 596, 599, fn. 5 [71 Cal.Comp.Cases 155]; *Kleemann v. Workers' Comp. Appeals Bd.* (2005) 127 Cal.App.4th 274, 280, fn. 2 [70 Cal.Comp.Cases 133].) The Appeals Board will grant removal only if the petitioner shows that substantial prejudice or irreparable harm will result if removal is not granted. (Cal. Code Regs., tit. 8, 10955(a); see also *Cortez*, *supra*; *Kleemann*, *supra*.) Also, the petitioner must demonstrate

that reconsideration will not be an adequate remedy if a final decision adverse to the petitioner ultimately issues. (Cal. Code Regs., tit. 8, § 10955(a).) Here, based upon the WCJ's analysis of the merits of the defendant's arguments, we are not persuaded that substantial prejudice or irreparable harm will result if defendant's petition is denied. We do note, however, that in light of our findings herein, the order to produce the benefits printout may be moot, so we will defer same as part of this opinion and decision.

III.

With respect to cost petitioner, we find it instructive to first highlight some of the legal principles that are relevant to our review of this matter. Workers' compensation proceedings are conducted in English, and with respect to non-English speaking individuals, their due process rights may be violated if the information is not presented in a language they understand. Specifically, where a non-English speaking injured worker must give testimony or appear at an English only proceeding such as an Appeals Board hearing, the worker must be able to understand the information provided and the questions asked in order to meaningfully appear at the proceedings.

Similarly, when a C&R is presented, which is a contract to settle a disputed claim, the worker must be able to understand the provisions of the C&R in order for the C&R to be a valid agreement. (Lab. Code §§ 5000-5003; *Camacho v. Target* (2018) 24 Cal.App.5th 291, 301-302 [83 Cal.Comp.Cases 1014 ["These safeguards against improvident releases place a workmen's compensation release upon a higher plane than a private contractual release; it is a judgment, with 'the same force and effect as an award made after a full hearing." (Citation)].) It is imperative that the injured worker comprehend the meaning of the proceedings, including any documents that they review and sign. Otherwise, an injured worker's due process rights may be violated if a translator is not provided to translate documents and for the reading of a C&R.

As we reiterated in our recent en banc opinion in *Perez v. Chicago Dogs* (2025) 90 Cal. Comp.Cases 830, 836 (Appeals Board en banc), in workers' compensation proceedings, all parties retain the fundamental right to due process 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].)

Section 5811 states in pertinent part that:

> "Interpreter fees that are reasonably, actually, and necessarily incurred shall be paid by the employer under this section, provided they are in accordance with the fee schedule adopted by the administrative director.
>
> A qualified interpreter may render services during the following: . . .(D) During those settings which the administrative director determines are reasonably necessary to ascertain the validity or extent of injury to an employee who does not proficiently speak or understand the English language."

(Lab. Code, §5811(b)(2).)

AD Rule 9795.3(a) provides for interpreter fees in "[o]ther similar settings determined by the Workers' Compensation Appeals Board to be reasonable and necessary to determine the validity and extent of injury to an employee." AD Rule 9795.3 (a) states:

> "Fees for services performed by a certified or provisionally certified interpreter, upon request of an employee who does not proficiently speak or understand the English language, shall be paid by the claims administrator for any of the following events:
>
> (1) An examination by a physician to which the injured employee submits at the request of the claims administrator, the administrative director, or the appeals board;
> (2) A medical treatment appointment;
> (3) A Comprehensive medical-legal evaluation as defined in subdivision (c) of Section 9793, a follow-up medical-legal evaluation as defined in subdivision (f) of Section 9793, or a supplemental medical-legal evaluation as defined in subdivision (k) of Section 9793; provided, however, that payment for interpreter's fees by the claims administrator shall not be required under this paragraph unless the medical report to which the services apply is compensable in accordance with Article 5.6. Nothing in this paragraph, however, shall be construed to relieve the party who retains the interpreter from liability to pay the interpreter's fees in the event the claims administrator is not liable.
> (4) A deposition of an injured employee or any person claiming benefits as a dependent of an injured employee, at the request of the claims administrator, including the following related events:
> (i) Preparation of the deponent immediately prior to the deposition,
> (ii) Reading of a deposition to a deponent prior to signing, and,
> (iii) Reading of prior volumes to a deponent in preparation for continuation of a deposition.
> (5) An appeals board hearing, or arbitration.
> (6) A conference held by an information and assistance officer pursuant to Chapter 2.5(commencing with Section 5450) of Part 4 of Division 4 of the Labor Code to assist in resolving a dispute between an injured employee and a claims administrator.

> (7) Other similar settings determined by the Workers' Compensation Appeals Board to be reasonable and necessary to determine the validity and extent of injury to an employee."

(Cal. Code of Regs., tit. 8, 9795.3.)

Further, AD Rule 9793(b)(1) states:

> (b) The following fees for interpreter services provided by a certified or provisionally certified interpreter shall be presumed to be reasonable:
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> (1) For an appeals board hearing, arbitration, or deposition: ***interpreter fees shall be billed and paid at the greater of the following (i) at the rate for one-half day or one full day as set forth in the Superior Court fee schedule for interpreters in the county where the service was provided***, or (ii) at the market rate. The interpreter shall establish the market rate for the interpreter's services by submitting documentation to the claims administrator, including a list of recent similar services performed and the amounts paid for those services. Services over 8 hours shall be paid at the rate of one-eighth the full day rate for each hour of service over 8 hours. (bold and italics added for emphasis.)

It is observed that subsection (7) of section 9795.3(a) provides for interpreter fees in "[o]ther similar settings determined by the Workers' Compensation Appeals Board to be reasonable and necessary to determine the validity and extent of injury to an employee." Providing interpretation services for a C&R which is a settlement document appears to be similar to the other settings in which an interpreter is required under section 9795.3(a)(1) through (6). An injured worker needs to receive, understand and respond to information that will be relied upon by the WCJ to make determinations.

Because the injured worker has a right to be apprised of the basis and extent of settlement of their claim before agreeing to present the documents to a workers' compensation judge, the provision of certified interpreting services to applicant are clearly "reasonable and necessary to determine the validity and extent of injury to an employee" under California Code of Regulations, Title 8, Section 9795.3(a)(7). This interpretation of Section 9795.3(a)(7) is consistent with reasoning of the Appeals Board in several panel decisions issued to date [2].

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[2] *Hernandez v. Alba Constr. Co*., 2018 Cal. Wrk. Comp. P.D. LEXIS 311; *Sanchez v. Hartmark Cabinet Design & Mfg.,* 2019 Cal. Wrk. Comp. P.D. LEXIS 6; *Vasquez v. Millwork Bros., Inc*., 2024 Cal. Wrk. Comp. P.D. LEXIS 383; *Luis Verdeja v. Sunset Express U.S., Inc.* (BPD) 2026 ADJ16188766. We note that unlike en banc decisions, panel decisions are not binding precedent on other Appeals Board panels and WCJs. (See *Gee v. Workers' Comp. Appeals Bd.* (2002) 96 Cal. App. 4th 1418, 1425 fn. 6 [67 Cal.Comp.Cases 236].) However, panel decisions are citeable authority and the Appeals Board may consider these decisions to the extent that their reasoning is found persuasive

On December 20, 2023, WCJ Broussard approved a Joint Order Approving Compromise and Release. The Joint OACR states the following:

> Based upon the reasons for settlement set forth in the Agreement, the Compromise & Release is deemed adequate. In determining the adequacy of the Agreement, the court has considered the following:
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> 1. The reasons given in this settlement.
> 2. The applicant's release of his dependent(s) right to potential death benefits under *Sumner* (663 P.2d 534 (1983)) and *Johnson* (471 P.2d 1003(1970) cases.
>
> 3. In view of the contested issues as set forth in the offer of proof, there are good faith issues, which if resolved against the employee, would defeat the employees right to compensation.
>
> 4. The medical reports in the file. Applicant required the services of a translator in order for him to understand what he was agreeing to settle his claim.
>
> …

(OACR, December 20, 2023.)

Here, the C&R explicitly raised an issue regarding the validity and compensability of applicant's injury claims in its denial of the claim as stated in paragraph 9. Arguably, the defendant's by denying applicant's injury were asking the WCJ to consider the validity and extent of injury to applicant in deciding whether to approve the settlement. Since the injured worker had a right to be apprised of these contentions before agreeing to have them presented to a WCJ, the services of a certified interpreter were clearly reasonable and necessary in order to determine the validity and extent of injury to applicant.

As such, moreover, we agree with cost petitioner that the facts do not support the WCJ's finding that Cal. Code Regs. §9795.3(b)(2) applies in this matter and find that cost petitioner is entitled to the greater of market rate or county superior court rate under AD Rule 9795.3(b)(1).

In this matter, we find that translating a C&R is most similar to appearing at an appeals board hearing which falls under AD Rule 9795.3(b)(1). Interpreter fees shall be billed and paid at the greater of the following (i) at the rate for one-half day or one full day as set forth in the Superior Court fee schedule for interpreters in the county where the service was provided, or (ii) at the

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particularly on issues of contemporaneous administrative construction of statutory language. (See *Guitron v. Santa Fe Extruders* (2011) 76 Cal. Comp. Cases 228, fn. 7 (Appeals Board En Banc); *Griffith v. Workers' Comp. Appeals Bd.* (1989) 209 Cal. App. 3d 1260, 1264, fn. 2, [54 Cal.Comp.Cases 145].)

market rate. (Cal. Code Regs., tit. 8, §9795.3(b)(1).) Thus, we conclude that due process requires that services for translation of a C&R must be provided to a non-English speaking worker and are subject to payment under AD Rule 9795.3(b)(1).

Here, the interpreter has the burden of proving among other things that the fees charged were reasonable in order to recover charges for interpreter services. (*Guitron v. Santa Fe Extruders* (2011) 76 Cal.Comp.Cases 228, 234 (Appeals Board en banc); see *Kunz v. Patterson Floor Coverings, Inc.* (2002) 67 Cal.Comp.Cases 1588 (Appeals Board en banc); *Torres v. AJC Sandblasting* (2012) 77 Cal.Comp.Cases 1113 (Appeals Board en banc); *Tapia v. Skill Masters Staffing* (2008) 73 Cal.Comp. Cases 1338 (Appeals Board en banc) [when the value of the services is not established by a fee schedule, a lien claimant must present evidence of the reasonable value of those services in order to support recovery].)

In the present matter, cost petitioner is entitled to payment for the translation services it provided to applicant at the reading and signing of the C&R and the issue is the amount that cost petitioner is entitled to be paid for its translation services provided to applicant.

On December 8, 2023, cost petitioner provided Spanish translation services for applicant at the reading and signing of the C&R in Riverside, California. On December 12, 2023, cost petitioner billed defendant $350.00 for its services based on the County Superior Court rate for Riverside County or market rate. (Exhibit 2, December 12, 2023.) In response, defendant paid $175.00. We agree with cost petitioner that it should be paid the higher rate pursuant to AD Rule 9795.3(b)(1), which here is an additional $175.00 in order to satisfy the market rate amount billed of $350.00. We defer the issue of whether defendant is liable for attorney's fees, interest, costs, sanctions, and penalties.

Accordingly, as our opinion and decision after reconsideration, we deny defendant's Petition for Removal, grant cost petitioner's Petition for Reconsideration, and affirm the Joint F&O, except that we amend it to find that cost petitioner is entitled to payment under AD Rule 9795.3(b)(1), and find that defendant is liable for an additional $175.00 in payment to cost petitioner, defer the issue of any costs, attorney's fees, penalties and interest, and defer the issue as to whether, in light of our findings herein, defendant is ordered to produce the benefit printout and explanation of reviews as to interpreter services in this matter. We will return this matter to the WCJ for further proceedings consistent with this opinion.

For the foregoing reasons,

IT IS ORDERED that defendant's Petition for Removal of the Joint Findings and Order of January 6, 2026 is **DENIED**.

IT IS ORDERED that cost petitioner's Petition for Reconsideration of the Joint Findings and Order of January 6, 2026 is **GRANTED**.

IT IS FURTHER ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the decision of January 6, 2026 is **AFFIRMED** except that it is **AMENDED** as follows:

JOINT FINDINGS OF FACT

…

6. The presumed reasonable fee for the interpreting services provided by cost petitioner Marjorie Martinez Interpreting, for the signing of the Compromise and Release falls under AD Rule 9795.3(b)(1). (Cal. Code Regs., tit. 8, § 9795.3(b)(1)).

7. The issues of whether defendant is liable for costs, attorney's fees, penalties, and interest for delayed payment are deferred.

8. Cost petitioner met its burden to show that it is entitled to an additional $175.00 under AD Rule 9795.3(b)(1). (Cal. Code Regs., tit. 8 § 9795.3(b)(1)).

10. The issue of whether defendant, Preferred Professional Insurance Company, as administered by Omaha National Underwriters, are hereby ordered to produce the Benefit Printout and Explanation of Reviews related to all interpreter payments on this case is deferred.

AWARD

Preferred Professional Insurance Co./Omaha National Underwriters paid $175.00 to cost petitioner Marjorie Martinez Interpreting for the subject services. Preferred Professional Insurance Co./Omaha National Underwriters is liable for payment to cost petitioner Marjorie Martinez Interpreting pursuant to AD Rule 9795.3(b)(1) (Cal. Code Regs., tit. 8 § 9795.3(b)(1)) of an additional $175.00. The issue of sanctions, penalties, costs, interest, and attorney's fees is deferred.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ CRAIG L. SNELLINGS, COMMISSIONER

/s/ JOSÉ H. RAZO, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

April 10, 2026

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

AM LIEN SOLUTIONS
GEORGE CORSON

DLM/oo

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