

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

BRIAN MORGAN, *Applicant*

vs.

**MONTEREY PENINSULA ENGINEERING; ACE AMERICAN INSURANCE
COMPANY, administered by ESIS, *Defendants***

**Adjudication Numbers: ADJ9941947; ADJ10126834
Salinas District Office**

**OPINION AND ORDER
GRANTING PETITION FOR REMOVAL ON BOARD MOTION
AND DECISION AFTER REMOVAL**

Lien claimant CALSTAR Air Medical Services (CALSTAR) filed a Petition for Reconsideration and a Petition to Amend a stipulated Award issued by the workers' compensation administrative law arbitrator (WCA) on January 24, 2022, in case number ADJ9941947.

On February 24, 2026, a workers' compensation administrative law judge (WCJ) issued an "Order Vacating Trial Set for April 14, 2026, and Deferring Petition For Reconsideration and Petition To Amend Award to Arbitrator."

On May 21, 2026, the arbitrator issued a Report and Recommendation on Petition for Reconsideration (Report) recommending that the Petition be granted and that the matter be remanded to the arbitrator for the purpose of allowing lien claimant to be heard on the issue of the viability of its lien claim.

We have considered the allegations in the Petition, the Answer, and the contents of the WCA's Report.

Based on our review of the record, for the reasons stated in the WCA's Report, and as discussed below, we will grant Removal on motion of the Workers' Compensation Appeals Board (Appeals Board) pursuant to Labor Code section¹ 5310, and we will substitute a new Order removing the reference to deferring the Petition for Reconsideration to the arbitrator.

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

BACKGROUND

In case number ADJ9941947, applicant claimed injury to the brain, head, neck, and back while employed by defendant Monterey Peninsula Engineering as a heavy equipment operator on June 7, 2012. In case number ADJ10126834, applicant claimed injury to the brain, head, neck, and back while employed by defendants as a heavy equipment operator.

On February 25, 2021, CALSTAR filed a notice and request for allowance of lien in case number ADJ9941947. On June 15, 2022, an ACJ issued an Order that CALSTAR's notice and request for allowance of lien in ADJ9941947 be deemed cross-filed in ADJ10126834.

DISCUSSION

The proceedings herein arise out of an alternative dispute resolution (ADR) program authorized under section 3201.5. Pursuant to subdivision (a), the Department of Industrial Relations and the courts of this state shall recognize as valid and binding any provision in a collective bargaining agreement between a private employer or groups of employers engaged in specified construction trades. The statute specifically authorizes the ADR program to provide for arbitration of disputes, provided that "the decision of the arbiter or board of arbitration is subject to review by the appeals board in the same manner as provided for reconsideration of a final order, decision, or award made and filed by a workers' compensation administrative law judge pursuant to the procedures set forth in Article 1 (commencing with Section 5900) of Chapter 7 of Part 4 of Division 4, and the court of appeals pursuant to the procedures set forth in Article 2 (commencing with Section 5950) of Chapter 7 of Part 4 of Division 4, governing orders, decisions, or awards of the appeals board." (Lab. Code, § 3201.5(a).)

WCAB Rule 10961 (Cal. Code Regs., tit. 8, § 10961) provides that within 15 days after the timely filing of a petition for reconsideration: (1) The WCJ may prepare a report and transfer jurisdiction to the Appeals Board to address the merits of the petition (Cal. Code Regs., tit. 8, § 10961(a); see Cal. Code Regs., tit. 8, § 10962); (2) The WCJ may rescind the entire order, decision or award and initiate proceedings within 30 days (Cal. Code Regs., tit. 8, § 10961(b)); or (3) The WCJ may rescind the order, decision or award and issue an amended order, decision or award, and a new petition for reconsideration must be filed in response to the amended order, decision or award (Cal. Code Regs., tit. 8, § 10961(c)).

Consequently, if the order, decision or award is rescinded pursuant to subdivision (b) or subdivision (c) within the 15-day period wherein the WCJ retains jurisdiction, the original petition

is deemed moot by operation of law because the order, decision or award that is the subject of the petition no longer exists.

Only the Appeals Board is statutorily authorized to issue a decision on a petition for reconsideration. (Lab. Code, §§ 112, 115, 5301, 5901, 5908.5, 5950; see Cal. Code Regs., tit. 8, §§ 10320, 10330.) Here, the WCJ issued the order deferring the issue of the Award to the WCA and took the matter off calendar, thereby rendering the Petition for Reconsideration moot by operation of law. However, to clarify, while the WCA may address the Petition to Amend, the WCA does not actually “act” on the Petition for Reconsideration because it has already been rendered moot.

Accordingly, we grant removal on motion of the Appeals Board, rescind the February 24, 2026 Order, and substitute a new Order. We note that both case number ADJ9941947 and case number ADJ10126834 should be deferred to the WCA.

For the foregoing reasons,

IT IS ORDERED that **REMOVAL** is **GRANTED** on motion of the Workers' Compensation Appeals Board.

IT IS FURTHER ORDERED, as the Decision After Removal of the Workers' Compensation Appeals Board, that the ORDER VACATING TRIAL SET FOR APRIL 14, 2026, AND DEFERRING PETITION FOR RECONSIDERATION AND PETITION TO AMEND AWARD TO ARBITRATOR is **RESCINDED** and the following is **SUBSTITUTED** therefor:

**ORDER VACATING TRIAL SET FOR APRIL 14, 2026, AND DEFERRING
PETITION TO AMEND AWARD TO ARBITRATOR**

Lien Claimant CAL STAR AIR MEDICAL SERVICES ("CALSTAR") has filed a Petition for Reconsideration executed on February 17, 2026. The trial setting of April 14, 2026, is vacated until jurisdiction is returned to the Salinas District Office WCAB. Petition to Amend Award is deferred to the arbitrator. Petition for remote appearance at trial is now moot.

Once jurisdiction is returned to the Salinas board, the matter will be scheduled for a MSC as issues may change depending on arbitrator's decision.

GOOD CAUSE APPEARING; IT IS ORDERED THAT the trial set for April 14, 2026, is off calendar.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ PAUL F. KELLY, COMMISSIONER

/s/ JOSÉ H. RAZO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

July 20, 2026

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

**JUDY MORGAN (guardian ad litem for BRIAN MORGAN)
WILSON WISLER
FELDESMAN LLP
FLOYD SKEREN MANUKIAN LANGEVIN, LLP
MACCORA & PEOPLES
HAWORTH BRADSHAW, STALLKNECHT & BARBER, INC.
STEVEN SIEMERS, ARBITRATOR**

JB/pm

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