

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

ERIC RIGGS, *Applicant*

vs.

**STOCKWELL, HARRIS, WOOLVERTON & FOX;
WESCO INSURANCE COMPANY, administered by
AMTRUST NORTH AMERICA, *Defendants***

**Adjudication Numbers: ADJ18022996, ADJ20809270, ADJ18013255
Sacramento District Office**

**OPINION AND ORDER
DISMISSING PETITION FOR
RECONSIDERATION**

Defendant seeks reconsideration of the Findings, Orders, and Awards (FO&A) that was issued by the workers' compensation administrative law judge (WCJ) on June 9, 2026. The WCJ found, in relevant part, that: in ADJ18022996, from June 2014 to August 28, 2022, while employed by defendant as an attorney, applicant sustained injury arising out of and in the course of employment (AOE/COE) to his psyche/stress; injury to cardio was deferred and reserved; applicant's earnings at the time of injury were \$4,430.00 per week; the injurious exposure was a period through June 2022; applicant is entitled to temporary disability for 104 weeks beginning September 3, 2022; penalties are reserved and deferred; and defendant's Exhibits R and S are admissible. The WCJ awarded applicant temporary disability in ADJ18022996 from September 3, 2022 to August 31, 2024 at the weekly rate of \$2,309.56 to be adjusted with the temporary disability benefits paid in ADJ20809270 to avoid concurrent temporary disability for overlapping periods. The WCJ further found, in relevant part, that: in ADJ20809270, from June 2014 to August 28, 2022, while employed by defendant as an attorney, applicant sustained injury AOE/COE to his cervical spine, thoracic spine, lumbar spine, shoulders, elbows, forearms, wrists, and hands; injury to cardio was deferred and reserved; the applicant's earnings at the time of injury were \$4,430.00 per week; the injurious exposure was from July 31, 2022 to August 28, 2022; applicant is entitled to temporary disability for 104 weeks beginning September 16, 2022; penalties are reserved and deferred; and defendant's Exhibits R and S are admissible. The WCJ awarded applicant temporary

disability in ADJ20809270 from September 16, 2022 to September 13, 2024 at the weekly rate of \$2,309.56 to be adjusted with the temporary disability benefits paid in ADJ18022996 to avoid concurrent temporary disability for overlapping periods. The WCJ ordered ADJ18013255 be dismissed by the request of the parties for lack of employment.

Defendant requests that the FO&A be rescinded due to the discovery of a possible unemployment insurance lien.

We have received an Answer from the applicant.

We WCJ issued a Report and Recommendation on Petition for Reconsideration (Report), recommending that the Petition be denied.

We have considered the allegations in the Petition and the Answer and the contents of the Report. Based on our review of the record, and for the reasons stated below, we will dismiss the Petition as defendant is not aggrieved.

FACTS

Pursuant to the WCJ's Report, the relevant facts are as follows:

The issue of temporary disability was decided at trial and Awards for temporary disability issued dated June 9, 2026.

The Employment Development Department ("EDD") did not file a lien for unemployment benefits.

Defendant filed an Emergency Petition for Stay ("Petition") of the Findings, Orders, and Awards dated June 22, 2026, due to a discovery of a potential EDD unemployment lien. The Petition was denied the following day at a walk-through.

Then, Defendant filed a Petition for Reconsideration dated June 24, 2026, contending while preparing to issue payment for temporary disability benefits per the Awards it emailed EDD to confirm whether there were any liens and learned that Applicant had an unemployment claim. In the Petition for Reconsideration, Defendant contends it sent a follow-up email requesting confirmation of a lien and information regarding benefits paid but did not receive a response.

Applicant filed an Answer to the Petition for Reconsideration dated June 29, 2026. Applicant contends there is no lien, only potential for a lien, that that Defendant could have sent an email earlier. Applicant further contends Defendant is not aggravated by the Award because he is willing to hold Defendant harmless against a lien for unemployment benefits.

(Report, at p. 2.)

DISCUSSION

I.

Up through July 1, 2024, petitions for reconsideration were subject to former Labor Code section 5909¹, 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 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 cases were transmitted to the Appeals Board on July 2, 2026, and 60 days from the date of transmission is August 31, 2026. This decision is issued by or on August 31, 2026, so 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)

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

(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 workers' compensation administrative law judge, the Report was served on July 2, 2026, and the cases were transmitted to the Appeals Board on July 2, 2026. Service of the Report and transmission of the cases 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 2, 2026.

II.

Section 5900(a) provides in pertinent part that:

Any person *aggrieved directly or indirectly* by any final order, decision, or award made and filed by the appeals board or a workers' compensation judge under any provision contained in this division, may petition the appeals board for reconsideration in respect to any matters determined or covered by the final order, decision, or award, and specified in the petition for reconsideration.

(Lab. Code, § 5900(a))

“An employee's receipt of [unemployment] benefits does not relieve his or her employer or the employer's insurance carrier of liability to pay workers' compensation insurance. (§ 3752.) Hence, when an employee, who was paid [unemployment] benefits, is later awarded workers' compensation for the same period of unemployment, the EDD may apply for a lien for reimbursement of those [unemployment] payments.” (*Kelly v. Workers' Compensation Appeals Bd.* (2004) 69 Cal.Comp.Cases 568, 571.)

Here, defendant is requesting the WCJ's FO&A be rescinded and the orders to issue payments of temporary disability be stayed due to a possible unemployment insurance lien. Although EDD has not filed a lien, defendant requests the WCJ's FO&A be rescinded as there is a *possible* unemployment insurance lien. Defendant's lack of due diligence to find out whether an unemployment insurance lien exists before the WCJ issued a FO&A should not infringe on applicant's right to receive temporary disability benefits. Moreover, as any issues related to an unemployment insurance lien would be between defendant and EDD, we do not find defendant is

aggrieved by the WCJ's decision. Since defendant here is not "aggrieved directly or indirectly" by the FO&A, we dismiss the Petition for Reconsideration.

For the foregoing reasons,

IT IS ORDERED that defendant's Petition for Reconsideration of the FO&A issued by the WCJ on June 9, 2026 is **DISMISSED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

ANNE SCHMITZ, DEPUTY COMMISSIONER
CONCURRING NOT SIGNING



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

August 28, 2026

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

**ERIC RIGGS
LLARENA, MURDOCK, LOPEZ & AZIZAD, APC**

JL/abs

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