

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

JESSICA ORDENANA, *Applicant*

vs.

**ROYAL AIRLINE LINEN;
UTICA MUTUAL INSURANCE GROUP, *Defendants***

**Adjudication Numbers: ADJ12414993, ADJ12414992, ADJ12414651
Los Angeles District Office**

**OPINION AND ORDERS
DENYING PETITIONS
FOR RECONSIDERATION**

Both applicant's attorney and lien claimant, Susan Garrett, seek reconsideration of the "Joint Findings and Award, Opinion on Decision" (F&A) issued on November 14, 2025, by the workers' compensation administrative law judge (WCJ). The WCJ found, in pertinent part, that the \$18,000.00 in attorney's fees previously approved in this matter be split with \$10,000.00 going to applicant's current attorney and \$8,000.00 going to lien claimant.

Applicant's attorney argues that the award in favor of lien claimant was excessive because lien claimant primarily represented applicant through the use of a hearing representative, without proper authorization, and failed to obtain temporary disability benefits when medical reporting indicated that such benefits were due and payable.

Lien claimant argues that the \$10,000.00 awarded to applicant's attorney was awarded in violation of law, because applicant's attorney failed to file the appropriate forms and that any such money should be returned to applicant.

We have not received an answer from any other party. The WCJ filed a Report and Recommendation on Petition for Reconsideration (Report) recommending that we deny reconsideration.

We have considered the allegations of the Petitions for Reconsideration and the contents of the WCJ's Report. Based on our review of the record we will deny both Petitions for Reconsideration.

FACTS

Per the WCJ's Report:

The Garrett Law Group filed three applications for adjudication for this applicant. In ADJ12414993 (MF) a CT was filed. In ADJ12414651, a specific injury was filed and in ADJ12414992 another specific injury was filed. On October 19, 2023, an Order Approving Compromise and Release for \$120,000 was issued and ordered attorney fees of \$18,000 to be held in trust. The matter was set for trial on the issue of division of the attorney fees and scheduled for trial on February 7, 2024, when Garrett Law Group filed a Petition for Reconsideration/Removal on the eve of trial. Eventually, the matter proceeded to trial on August 19, 2025 regarding the attorney fee division. On November 14, 2025, the undersigned WCJ issued her Findings of Fact and Award finding that the fees should be split with Garrett Law Group receiving \$8,000.00 and Hinden and Breslavsky receiving \$10,000.00 and an additional \$500 in attorney fees/costs, to be paid by Garrett Law Group, for the delay tactics of filing a Petition for Reconsideration/Removal on the eve of trial on the attorney fee issue, preventing this matter from going to trial on this issue.

(WCJ's Report, p. 2.)

The Garrett Law Group agreed to utilize Dr. Sanchez as the Qualified Medical Evaluator, who issued a report dated 7/7/2020, where the doctor only refers to the advocacy letter from the defense attorney (LIEN CLAIMANT'S EXHIBIT 2). It does not appear The Garrett Law Group participated in preparing an advocacy letter. Dr. Sanchez found the applicant's claim to be industrial, the applicant was temporarily disabled and stated the applicant required additional treatment. The Garrett Law Group failed to follow up with medical treatment, including a surgical consult for the applicants severe carpal tunnel syndrome and shoulder treatment, and did not obtain temporary disability benefits for the applicant despite the QME finding injury AOE/COE. (LIEN CLAIMANT'S EXHIBIT 2 QME Dr. Sanchez)

After four years of handling the case, Garrett Law Group was not able to obtain temporary disability for the applicant or medical treatment requested by the doctors. They did file a DOR (Judicial notice – EAMS doc ID number 76245800) requesting temporary disability and AOE/COE. They did not file the PTCS's for the hearing on 2/15/2022, and the hearing representative allowed the case to be taken OTOC instead of setting it for trial. (Judicial notice – MOH, EAMS doc ID number 76440665)

(*Id.* at p. 4.)

DISCUSSION

I.

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.

(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.

(§ 5909.)

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 December 16, 2025, and 60 days from the date of transmission is Saturday, February 14, 2026, which by operation of law means this decision is due by Tuesday, February 17, 2026. (Cal. Code Regs., tit. 8, § 10600(b).)² This decision is issued by or on February 17, 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

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

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

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.

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.

According to the proof of service for the Report and Recommendation by the WCJ, the Report was served on December 16, 2025, and the case was transmitted to the Appeals Board on December 16, 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 December 16, 2025.

II.

The Appeals Board has exclusive jurisdiction over fees to be allowed or paid to applicants' attorneys. (*Vierra v. Workers' Comp. Appeals Bd. (Vierra)* (2007) 154 Cal.App.4th 1142, 1149 [65 Cal. Rptr. 3d 423, 72 Cal.Comp.Cases 1128]; Cal. Code Regs., tit. 8, § 10840.) In calculating attorney fees, our basic statutory command is that the fees awarded must be "reasonable." (Lab. Code, §§ 4903, 4906(a), (d).) Pursuant to section 4906, in determining what constitutes a "reasonable" attorney fee, the Appeals Board must consider four factors: 1) the responsibility assumed by the attorney; 2) the care exercised by the attorney; 3) the time expended by the attorney; and 4) the results obtained by the attorney. (Lab. Code, § 4906(d); see also Cal. Code Regs., tit. 8, § 10844.)

A petition for reconsideration must fairly state all of the material evidence relative to the point or points at issue. (Lab. Code, § 5902; Cal. Code Regs., tit. 8, § 10945(a).) Each contention contained in a petition for reconsideration must be stated separately and clearly set forth. (*Id.*) The petition shall support its evidentiary statements with specific references to the record. (Cal. Code Regs., tit. 8, § 10945(b).) Failure to cite to the record and failure to fully and accurately set forth the facts and evidence is grounds to deny a petition for reconsideration. (§ 5902; Cal. Code Regs., tit. 8, §§ 10945.)

We first address the petition of applicant's attorney. For the reasons stated in the Opinion on Decision, we agree with the WCJ that the split of attorney's fee awarded in this matter is

reasonable pursuant to section 4906(d) and WCAB Rule 10844. While it is true that applicant's attorney was on the file for considerably less time, it is also true that the results obtained in their four months of representation were considerably more favorable to applicant. Lien claimant offers no explanation in the record for why it failed to pursue applicant's claim of temporary disability benefits when a QME's report supported the payment of such benefits.

Applicant attorney's petition contains many allegations that lien claimant is not entitled to an attorney's fee due to lien claimant's use of a hearing representative. However, applicant's attorney fails to cite the record throughout its petition to support any of the allegations made. (See *Flores v. Cal. Dept. of Corrections and Rehab.* (2014) 224 Cal.App.4th 199, 204 ["an appellant must do more than assert error and leave it to the appellate court to search the record ... to test his claim"].) Furthermore, applicant's attorney called no witnesses at trial to establish any of its allegations.

Next, we turn to lien claimant's petition. Section 5903 provides that any person *aggrieved* by a final order issued in a workers' compensation proceeding may petition for reconsideration. However, here, lien claimant does not challenge its own award, but instead argues that the money awarded to applicant's attorney should not have issued because applicant's attorney failed to file appropriate forms. (Lien Claimant's Petition for Reconsideration, p. 11 ["petitioner submits that no attorney fees can be Ordered to be paid to Law Offices of Hinden & Breslavsky and that any balance of the \$18,000.00 fee, after payment of fees to Garrett Law Group, are required by law to be returned to the injured worker."].) However, lien claimant has no standing to seek such relief as they are not aggrieved by the order.

Applicant was free to challenge the award of attorney's fees when the Compromise and Release was submitted in this matter. Applicant was further free to challenge any order as to the division of attorney's fees and argue for a return of funds. Applicant declined to raise any such challenge. Lien claimant cannot raise this issue as they do not represent applicant in these proceedings.

Accordingly, we deny both Petitions for Reconsideration.

IT IS ORDERED that applicant attorney's Petition for Reconsideration of the Joint Findings and Award, Opinion on Decision issued on November 14, 2025, by the WCJ is **DENIED**.

IT IS FURTHER ORDERED that lien claimant's Petition for Reconsideration of the Joint Findings and Award, Opinion on Decision issued on November 14, 2025, by the WCJ is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ JOSEPH V. CAPURRO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

February 17, 2026

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

**JESSICA ORDENANA
HINDEN BRESLAVSKY
GARRETT LAW
ZGRABLICH MONTGOMERY**

EDL/mt

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