WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

JOCELYN A ASUNCION (deceased); PARIDE ASCENZI (deceased), ***Applicants***

vs.

HEATHER DAWN PETERSEN; STATE FARM MUTUAL AUTO INSURANCE COMPANY; SEDGWICK CLAIMS MANAGEMENT SERVICES, INC.; CERTAIN UNDERWRITERS AT LLOYD'S OF LONDON, ***Defendants***

Adjudication Numbers: ADJ11935974; ADJ11937911
Riverside District Office

OPINION AND ORDER DENYING PETITION FOR RECONSIDERATION

Defendant, State Farm Mutual Auto Insurance Company (State Farm), seeks reconsideration of the "Opinion and Award"[1] (Findings of Fact) issued on June 2, 2026, by the workers' compensation arbitrator (WCA) wherein the parties stipulated and the WCA found, in relevant part, that while employed on March 30 2018, decedents sustained injuries arising out of and occurring in the course of their employment (AOE/COE) resulting in their deaths; at the time of the said injuries/deaths, decedents were employed by homeowner Heather Dawn Petersen at her residences in Temecula and Truckee, California; on March 30, 2018, the Temecula residence was insured by State Farm and the policy provided valid and collectible workers' compensation coverage for the injuries/deaths; the Truckee residence was insured by Certain Underwriters at Lloyd's of London (Underwriters) and said policy was for liability insurance, which provided

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[1] Pursuant to Labor Code section 5313, "the workers' compensation judge shall, within 30 days after the case is submitted, make and file ***findings*** upon all facts involved in the controversy …" (Lab. Code, § 5313, emphasis added.) Those ***findings*** must subsequently support an order, decision, or award that is issued. (Lab. Code, § 5903(e), emphasis added.) Separate from the findings of fact, and as required by section 5313 and explained in *Hamilton v. Lockheed Corporation (Hamilton)* (2001) 66 Cal.Comp.Cases 473, 478 (Appeals Bd. en banc), "the WCJ is charged with the responsibility of referring to the evidence in the opinion on decision, and of clearly designating the evidence that forms the basis of the decision." (*Id.* at p. 475.) The WCJ's opinion on decision "enables the parties, and the Board if reconsideration is sought, to ascertain the basis for the decision, and makes the right of seeking reconsideration more meaningful." In this case, the decision issued by the WCA is more appropriately characterized as "Findings of Fact." We further note no "award" of compensation has been issued.

specific coverage for dwelling, other structures, personal property, loss of use, personal liability, and medical payments, but contained no "workers['] compensation endorsement" for separate and distinct workers' compensation coverage; on March 30, 2018, decedents were employed and paid by Petersen as domestic help and were transporting her work vehicle, which was registered to a company owned by her (National Merchants Association), from her Temecula residence to her Truckee residence as per her direction so that they could act in their capacity as domestic help at her Truckee residence.

Based upon these stipulations and the accepted findings by the WCA, the WCA issued a decision indicating that although the Underwriters policy would be "construed as if there were a provision of [workers' compensation] coverage" per Insurance Code section 11590, "since State Farm has existing[,] valid and collectible, workers' compensation insurance," the Underwriters policy "shall not apply."

State Farm contends that Underwriters had applicable workers' compensation coverage and that "irrespective of Insurance Code 11590[,]" the WCA's findings should be amended to reflect said coverage and allow for reimbursement and/or contribution from Underwriters based upon principles of "equitable contribution." (Petition for Reconsideration/Removal (Petition), pp. 9-10.)

We have not received an Answer from Underwriters. The WCA prepared a Joint Report and Recommendation on Petition for Reconsideration (Report), recommending that the Petition be denied.

We have considered the allegations in the Petition, the contents of the Report, and we have reviewed the record in this matter. For the reasons discussed below, we will deny the Petition.

FACTS

On March 30, 2018, husband and wife, Paride Ascenzi and Jocelyn Asuncion, sustained injuries resulting in their deaths while transporting, at the direction of homeowner/employer Heather Dawn Petersen, Petersen's work vehicle from her Temecula residence to her Truckee residence.

On February 14, 2019, Applications for Adjudication of Claims were filed against State Farm. State Farm provided workers' compensation insurance coverage for the Temecula residence. Both claims were denied by State Farm.

On March 27, 2019, Maylyn Roubinian filed a Petition for Appointment of Guardian ad Litem and Trustee, and on December 1, 2020, a workers compensation administrative law judge (WCJ) appointed Roubinian as the guardian ad litem for Mykah Allagadan (applicant), who is the biological daughter of decedent, Jocelyn Asuncion. (Minutes of Hearing and Summary of Evidence (MOH/SOE), April 14, 2021; Joint Exhibit 21.)

On August 11, 2020, applicant filed a Declaration of Readiness to Proceed to a Mandatory Settlement Conference on the issues of death benefits and discovery.

The matter proceeded to multiple hearings and was ultimately set for a trial. On March 4, 2021, both cases were ordered consolidated at trial and issues set for determination included employment and injury AOE/COE. On April 14, 2021, several exhibits were offered into evidence, and testimony was offered by defendant. The WCJ also issued a separate Amended Order joining Underwriters and dismissing Lloyd's of London Syndicate 2987 / Presidio Exchange, a Northstar Company.

On June 10, 2021, the WCJ issued a Joint Findings and Orders (JF&O) which held that decedents sustained injuries AOE/COE on March 30, 2018, resulting in their deaths, and that at the time of said injuries/deaths, they were employed by Petersen at her residences in Temecula and Truckee, California. The FA&O further noted that the issue of coverage was subject to mandatory arbitration pursuant to Labor Code[2] section 5275.

On November 7, 2022, State Farm and applicant entered into two separate Compromise and Release agreements for settlement of her dependency claims. The Orders Approving Compromise and Release (OACRs) were issued on November 16, 2022.

On January 3, 2023, State Farm filed a Petition for Contribution/Reimbursement seeking contribution and/or reimbursement from Underwriters.

Thereafter, State Farm and Underwriters attempted to proceed with arbitration, and after the issuance of multiple panels, Natt Alschuler was appointed by the WCJ as the WCA on December 5, 2024.

Arbitration was held on May 1, 2026. At arbitration, the parties stipulated to the following: that while employed by homeowner Petersen on March 30 2018, decedents sustained injuries AOE/COE resulting in their deaths; at the time of the said injuries/deaths, decedents were employed by Petersen at her residences in Temecula and Truckee, California; on March 30, 2018,

[2] All further statutory references will be to the Labor Code unless otherwise indicated.

the Temecula residence was insured by State Farm and the policy provided valid and collectible workers' compensation coverage for the injuries/deaths; the Truckee residence was insured by Underwriters and said policy was for liability insurance, which provided specific coverage for dwelling, other structures, personal property, loss of use, personal liability, and medical payments, but contained no "workers['] compensation endorsement" for separate and distinct workers' compensation coverage; on March 30, 2018, decedents were employed and paid by Petersen as domestic help and were transporting her work vehicle, which was registered to a company owned by her (National Merchants Association), from her Temecula residence to her Truckee residence as per her direction so that they could act in their capacity as domestic help at her Truckee residence.

Issues set for determination at arbitration included whether Underwriters' policy provided coverage for bodily injury/death; whether Underwriters' policy provided workers' compensation insurance coverage pursuant to Insurance Code section 11590; and if workers' compensation insurance coverage was provided pursuant to Insurance Code section 11590, whether there existed other valid collectible workers compensation insurance coverage such that Underwriters' coverage would not apply, or whether Underwriters would nonetheless be excluded from coverage because of the Motor Vehicle Exclusion included in said policy. The parties submitted as joint exhibits, the JF&O issued on June 10, 2021; Compromise and Release agreements dated January 4, 2022, and corresponding OACRs; Underwriters' policy of insurance dated June 15, 2017; and the transcript of the July 8, 2020 deposition of Petersen. State Farm also submitted a notice of denial dated February 7, 2019 and a letter dated February 25, 2011 from Wilson Elser.

On June 2, 2026, the WCA issued Findings of Fact admitting into evidence all proffered exhibits, and accepted the parties' stipulations, including: that while employed by homeowner/employer Petersen on March 30 2018, decedents sustained injuries AOE/COE resulting in their deaths; at the time of the said injuries/deaths, decedents were employed by Petersen at her residences in Temecula and Truckee, California; on March 30, 2018, the Temecula residence was insured by State Farm and the policy provided valid and collectible workers' compensation coverage for the injuries/deaths; the Truckee residence was insured by Underwriters and said policy was for liability insurance, which provided specific coverage for dwelling, other structures, personal property, loss of use, personal liability, and medical payments, but contained no "workers['] compensation endorsement" for separate and distinct workers' compensation coverage; on March 30, 2018, decedents were employed and paid by Petersen as domestic help and were transporting her work vehicle, which was registered to a company owned by her (National Merchants Association), from her Temecula residence to her Truckee residence as per her direction so that they could act in their capacity as domestic help at her Truckee residence. Based upon these stipulations and findings, the WCA determined that although the Underwriters policy would be "construed as if there were a provision of [workers' compensation] coverage" per Insurance Code section 11590, "since State Farm has existing[,] valid and collectible, workers' compensation insurance," the Underwriters policy "shall not apply."

It is from these Findings of Fact that State Farm seeks reconsideration.

DISCUSSION

I.

Preliminarily, up through July 1, 2024, petitions for reconsideration were subject to former section 5909, which provided that a petition for reconsideration was deemed denied unless the Appeals Board acted on the petition within sixty (60) days from the date of filing.

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.
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> (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 <u>Event Description</u> is the phrase "Sent to Recon" and under <u>Additional Information</u> is the phrase "The case is sent to the Recon board."

Here, according to Events, the case was transmitted to the Appeals Board on June 26, 2026, and 60 days from the date of transmission is August 25, 2026. This decision is issued by or on August 25, 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).

Further, according to the proof of service for the Report by the WCA, the Report was served on June 25, 2026, and the case was transmitted to the Appeals Board on June 26, 2026. Service of the Report and transmission of the case to the Appeals Board did not occur on the same day. Thus, we conclude that service of the Report did not provide accurate notice of transmission under section 5909(b)(2) (in effect from July 2, 2024 through June 30, 2026), because service of the Report did not provide actual notice to the parties as to the commencement of the 60-day period on June 26, 2026.

However, a notice of transmission was served by the district office on June 26, 2026, which is the same day as the transmission of the case to the Appeals Board. 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), and consequently they had actual notice as to the commencement of the 60-day period on June 26, 2026.

II.

Turning now to the merits of the Petition, State Farm contends that Underwriters had applicable workers' compensation coverage and that "irrespective of Insurance Code 11590[,]" the WCA's findings should be amended to reflect said coverage and allow for reimbursement and/or contribution from Underwriters. (Petition, pp. 9-10.)

Insurance Code section 11590 states, in relevant part, that:

> … no policy providing comprehensive personal liability insurance may be issued or renewed in this state on or after January 1, 1977, unless it contains a provision for coverage against liability for the payment of compensation, as defined in Section 3207 of the Labor Code, to any person defined as an employee by subdivision (d) of Section 3351 of the Labor Code. Any such policy in effect on or after January 1, 1977, whether or not actually containing such provisions, shall be construed as if such provisions were embodied therein. However, such coverage shall not apply if any other existing, valid and collectible, workers' compensation insurance for such liability is applicable to the injury or death of such employee.

Section 3207 defines the term "compensation" as workers' compensation, which includes every benefit or payment conferred upon injured employee, or in the event of death, conferred upon the employee's dependents, under division 4 of the Labor Code, without regard to negligence.

Section 3351 defines the term "employee" as a person working "in the service of any employer under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed." Subdivision (d) of section 3351 notes that, with certain exceptions, this includes "any person employed by the owner or occupant of a residential dwelling whose duties are incidental to the ownership, maintenance or use of the dwelling, including the care and supervision of children, or whose duties are personal and not in the course of the trade, business, profession, or occupation of the owner or occupant."

Thus, when read together, sections 3207 and 3351 and Insurance Code section 11590, indicate that every personal liability insurance policy issued or renewed in the state of California must include workers' compensation coverage for domestic employees and if said policy does not explicitly include said coverage, the policy is treated as if it includes it, *unless there is other existing, valid, and collectible workers' compensation insurance* for the injury or death of an employee.

Here, the parties stipulated that the homeowner/employer's Temecula residence was insured by State Farm and the policy provided valid and collectible workers' compensation coverage for the injuries and deaths of decedents who worked there as domestic employees. (Stipulations of Facts and Issues, May 1, 2026.) The parties further stipulated that Underwriters' policy was a "liability insurance policy specifically providing insurance for Dwelling, Other Structures, Personal Property, Loss of Use, Personal Liability and Medical Payments." (*Ibid*.) The policy did "not contain a 'Workers Compensation Endorsement' providing separate and distinct [workers' compensation] coverage." (*Ibid*.) These facts are not in dispute. Nonetheless, State Farm avers that Insurance Code section 11590 does not prevent reimbursement/contribution and the WCA's finding that Underwriters' policy "shall not apply" is "inconsistent with the law." (Petition, p. 5.)

We disagree. The clear and unambiguous language of Insurance Code section 11590 states that any "policy in effect on or after January 1, 1977, whether or not actually containing such [workers' compensation] provisions, shall be construed as if such provisions were embodied therein. However, such coverage *shall not apply* if any other existing, valid and collectible, workers' compensation insurance for such liability is applicable to the injury or death of such employee." (Ins. Code § 11590, emphasis added.)

State Farm alleges that "Insurance Code 11590 was never intended to allow one insurer – who was found liable for injuries by the WCAB – to disavow coverage and walk away from the payment of or the contribution/reimbursement towards a valid and compensable workers' compensation claim just because dual or joint employment exists and one of those other employers also has a valid and existing workers' compensation policy."

We underscore the fact that there exists no "dual or joint employment" here. State Farm misconstrues the language of the WCJ's June 10, 2021 JF&O. As stated by the WCJ in his Opinion on Decision (OOD), "Petersen was the employer in fact" at both residences. (OOD, June 10, 2021, p. 9.) The real question was whether there existed dual policies and if so, whether the policy at the Temecula location (State Farm) or the Truckee location (Underwriters) applied. State Farm argues "equitable contribution" requires application of both policies, but we do not find their argument to be persuasive or supported by existing workers' compensation law. Further, although State Farm believes that both insurers share equal liability, under the clear language of Insurance Code section 11590 liability falls on the policy with existing, valid, and collectible workers' compensation coverage—i.e. State Farm.

Accordingly, we deny defendant State Farm's Petition.

For the foregoing reasons,

IT IS ORDERED that defendant State Farm's Petition for Reconsideration of the findings and decision issued by the workers' compensation arbitrator on June 2, 2026, is **DENIED.**

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ LISA A. SUSSMAN, DEPUTY COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

AUGUST 25, 2026

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

MYKAH ALLAGADAN
MAYLYN ROUBINIAN
THOMAS KINSEY, LLP
STRAUSSNER SHERMAN
NATT ALSCHULER, ARBITRATOR

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