

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

**JOSE GUTIERREZ, *Applicant***

**vs.**

**GLASSWERKS LA, INC. CO./AVALON GLASS AND MIRROR, insured by SAFETY  
NATIONAL INSURANCE COMPANY, administered by MATRIX ABSENCE  
MANAGEMENT, *Defendants***

**Adjudication Number: ADJ13614921  
Long Beach District Office**

**OPINION AND ORDER  
GRANTING PETITIONS FOR  
RECONSIDERATION  
AND DISQUALIFICATION  
AND DECISION AFTER  
RECONSIDERATION  
AND DISQUALIFICATION**

Lien representative for United Services Plus dba Ronco Drugs, Patrick Petronella (hereinafter "Petronella") seeks reconsideration of the Amended Findings and Orders (F&O) issued by the workers' compensation administrative law judge (WCJ) on November 18, 2025, wherein the WCJ found in pertinent part that Petronella's "failure or refusal to timely appear at multiple conferences and hearings in front of the undersigned WCJ demonstrate a pattern of behavior resulting in conduct subject to sanctions pursuant to Labor Code § 5813<sup>1</sup> and CCR §10421(b)(1)." The WCJ imposed a \$2,500.00 sanction against Petronella.

Petronella contends that the evidence does not support the WCJ's decision to impose sanctions under WCAB Rule 10421.

We did not receive an answer from any party.

The WCJ filed a Report and Recommendation on Petition for Reconsideration (Report) recommending that reconsideration be denied.

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<sup>1</sup> All further references are to the Labor Code, unless otherwise stated.

We have considered the allegations of the Petition and the contents of the WCJ's Report with respect thereto. Based on our review of the record, and for the reasons discussed below, we will grant reconsideration and rescind the F&O of the WCJ, and we will also treat the Petition as one for disqualification, grant the Petition and order that the matter be returned to the Presiding WCJ for reassignment to a different WCJ.

## **DISCUSSION**

### **I.**

Former Labor Code 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 December 23, 2025, and 60 days from the date of transmission is Saturday, February 21, 2026. The next business day that is 60 days from the date of transmission is Monday, February 23, 2026. (See Cal. Code Regs., tit. 8, § 10600(b).)<sup>2</sup> This decision is issued by or on Monday, February 23, 2026, so that we have timely acted on the Petition as required by section 5909(a).

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<sup>2</sup> 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.

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 shall be notice of transmission.

Here, according to the proof of service for the Report by the WCJ, the Report was served on December 23, 2025, and the case was transmitted to the Appeals Board on December 23, 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 23, 2025.

## II.

Applicant claimed injury to the left knee, left leg, and left foot while employed by defendant on August 5, 2020. The underlying case-in-chief resolved by way of Compromise and Release and an order approving issued on July 13, 2021.

On April 17, 2023, the parties proceeded to a lien hearing. Petronella is listed on the Minutes of Hearing as appearing for lien representative United Services Plus. The “Other/Comments” section of the MOH states that:

9:15 call back.

Rep for UNITED SERVICES PLUS is being signed in for the first time during 2nd call because he refused to participate properly in 1st call. NOI to sanction Mr. Petronela (*sic*) to issue by separate NOI. PTCS not filed by close of hearing.

Also on April 17, 2023, the WCJ issued a Notice of Intention to Issue Sanctions against Patrick Petronella (NIT) pursuant to section 5813 and WCAB Rule 10421. The NIT stated, in full,

On April 17, 2023, a lien conference was held before the undersigned WCJ. At that time, Mr. Patrick Petronella, the representative for lien claimant, United Services Plus, refused to participate properly in this Court’s conference procedures resulting in no appearance by lien claimant for the first call at that hearing. Mr. Petronella did not make his first appearance at that hearing until the second call of the case, some 45 minutes after the hearing had commenced. Mr. Petronella offered no reasonable explanation for his refusal to participate in this Court’s proceedings or his basis for ignoring those proceedings. This Court takes great steps to ensure the

conference proceedings are orderly, complete, and expeditious. Mr. Petronella's actions that day frustrated those steps by the Court resulting in an unnecessary delay in addressing the lien claim, a waste of this Court's and Defendant's time, and an unacceptable frustration of this Court's processes.

The most recent example includes, but is not limited to, failing to show up entirely for a lien trial scheduled on 4/11/2023 on Digna Lazaro v Souley Vegan, et al, ADJ14808797. This Court was informed that Mr. Petronella was representing multiple lien claimants that day. Mr. Petronella failed to appear for either the first call or the disposition on that matter without any explanation given to this Court.

Labor Code § 5813 permits the imposition of sanctions of up to \$2,500.00 against a party who engages in bad faith actions or tactics that are frivolous or solely intended to cause delay. Labor Code § 5813(b) provides that "[t]he determination of sanctions shall be made after written application by the party seeking sanctions or upon the appeals board's own motion."

In addition, pursuant to WCAB Rule 10421(b)(1), violations subject to the provisions of Labor Code § 5813 shall include, but are not limited to, the "[f]ailure to appear or appearing late at a conference or trial where a reasonable excuse is not offered or the offending party has demonstrated a pattern of such conduct."

Mr. Petronella's actions thus far have demonstrated a pattern of behavior showing a lack of respect to this Court, a lack of respect to this Court's processes and proceedings, a disregard for this Court's time, a disregard for Defendants' time, and an unwillingness to engage in appropriate and expeditious resolution of the lien claims he represents.

Therefore, **WITH GOOD CAUSE APPEARING, NOTICE IS HEREBY GIVEN THAT**, absent written objection and demonstration of good cause to the contrary served and filed addressed to the undersigned WCJ within ten (10) days, plus five (5) days for mailing, of service of this Notice of Intent, the undersigned WCJ will impose sanctions of up to \$2,500.00 against Mr. Patrick Petronella, pursuant to the above.

On May 18, 2023, Petronella filed an Objection to the NIT, stating, in part:

[I]t appears that the WCJ is claiming that the undersigned demonstrates a pattern of showing disrespect to the WCAB and its procedures. Most troubling, in this case, although the WCJ states that the undersigned did not sign in timely, this is not the case. The undersigned did sign in at the scheduled time and advised the WCJ of his appearance. The undersigned does acknowledge that the Judge may not have heard the undersigned based on the WCJ's repeated request for the appearance on behalf of the lien claimants. The undersigned did hear the Judge advised the parties to call back in 45 minutes. The undersigned did call back at 45 minutes. If the undersigned did not sign in at the proper time, how did the undersigned know to call back in 45 minutes? ... It isn't clear why the WCJ did not hear the undersigned sign in, but the

fact of the matter is the undersigned did sign in on time and repeatedly stated his appearance before the WCJ.

Nevertheless, if the WCJ is steadfast on sanctioning the undersigned, the undersigned is entitled[d] to a hearing before sanctions can be issued.

(Objection to Notice of Intention To Issue Sanctions Against Patrick Petronella, May 18, 2023.)

On June 23, 2023, the WCJ issued an “Order Denying Request for Hearing and Order Imposing Sanctions Against Patrick Petronella.” In the accompanying Opinion on Decision, the WCJ explained:

On 5/18/2023, respondent filed an Objection To Notice Of Intention To Issue Sanctions. Respondent indicated that respondent “did sign in at the scheduled time and advised the WCJ of his appearance” (*Objection*, page 2, line 2). This appears to be a blatant lie, because if respondent was properly present and participating at the first call, then respondent would have heard the undersigned WCJ tell Defendant that there was only one lien claimant present that morning at first call. In addition, it seems obvious to the Court that respondent was present during first call, but, for whatever reason known only to respondent, respondent refused to participate in the Court’s proceedings that morning. This is abundantly clear to the Court, as respondent did properly return at the 9:15 a.m. call back time and immediately attempted to sign in with the Court. This evidences that respondent knew he wasn’t signed in with the Court at the first call and was attempting to correct that at the second call. Respondent offers no explanation as to why he refused to participate during that first call.

\* \* \*

At that 9:15 a.m. second call, Mr. Patrick Petronella then made his first appearance with the Court and requested to be signed in by the Court, for the first time, as a representative for lien claimant, United Services Plus. This Court inquired of respondent why he was trying to sign in for the first time during second call of the case. Respondent provided no adequate response to the Court for his failure to appear and participate at first call. The undersigned WCJ then noted in the Minutes of Hearing that day: “Rep for United Services Plus is being signed in for the first time during 2nd call because he refused to participate properly in 1st call. NOI to sanction Mr. Petronella to issue by separate NOI.” (Minutes of Hearing, dated 4/17/2023).

The WCJ further stated that due process was satisfied without a hearing, where the WCJ had appropriately issued a NIT and provided Petronella with an opportunity to file a written objection. The WCJ explained:

[R]espondent indicates that he is “entitled to entitle [sic] to a hearing before sanctions can be issued” (*Objection*, page 2, lines 21 to 22). In support of this

demand, respondent simply references CCR §10421(a), which states that “[b]efore issuing such an order, the alleged offending party or attorney must be given notice and an opportunity to be heard.” This Court gave respondent notice of the issue, in the Court’s Notice of Intent to Issue Sanctions, dated 4/17/2023. Respondent was also given the opportunity to be heard, and was heard, by way of the untimely Objection dated 5/18/2023, which this Court accepts and has considered herein. A hearing on the issue is not required (see *Ezra v. WCAB* (2008) 73 CCC 391 (writ denied); *Wilber v. Roach Brothers, Inc.*, 2011 Cal. Wrk. Comp. P.D. LEXIS 145; *Marzett v. Pacific Gas & Electric Co.*, 2014 Cal. Wrk. Comp. P.D. LEXIS 69). In addition, respondent states no reason for the hearing, other than his belief that he is entitled to one. Respondent’s request for a hearing on the issue of sanctions is denied, therefore.

The WCJ concluded that Petronella’s objection was “unapologetic...argumentative, and fails to state a reasonable excuse for [his] actions,” and imposed a \$1,000.00 sanction upon Petronella for violating section 5813 and WCAB Rule 10421.

On July 14, 2023, Petronella sought reconsideration of the June 23, 2023 Order. In his Petition for Reconsideration, Petronella reasserted his contention that a hearing on the sanctions issue was necessary so that he could present evidence and/or testimony that would provide a reasonable explanation for his actions in the case.

On September 12, 2023, we issued an “Opinion and Order Granting Reconsideration and Decision After Reconsideration” (O&O Granting) based upon a lack of substantial evidence to support the WCJ’s decision. We explained that, absent a hearing on the sanctions issue, Petronella lacked a fair opportunity to respond to the WCJ’s rationale for imposing sanctions before the final decision was made. We thus rescinded the WCJ’s decision and returned the matter to the trial level for further proceedings.

On December 21, 2023, without setting the matter for further proceedings, the WCJ issued an Amended Notice of Intention to Impose Sanctions (Amended NIT) and Notice of Lien Conference. In the Amended NIT, the WCJ gave notice of the intention to impose sanctions up to \$2,500. He identified two bases for Petronella’s violation of WCAB Rule 10421(b)(1):

1. “[f]ailure to appear or appearing late at a conference or trial where a reasonable excuse is not offered’ for Patrick Petronella’s actions in the instant case of *Jose Gutierrez v Glasswerks LA INC c/o Avalon Glass and Mirror, et al* (ADJ13614921).”

2. “[f]ailure to appear or appearing late at a conference or trial where...the offending party has demonstrated a pattern of such conduct’ pursuant to CCR §10421(b)(1). Patrick Petronella appears to have demonstrated such pattern of

behavior for failing to show up timely or not showing up at all on multiple cases in front of the undersigned WCJ. In addition to Patrick Petronella's actions in the instant case of *Jose Gutierrez v Glasswerks LA INC c/o Avalon Glass and Mirror, et al* (ADJ13614921), as detailed above, Patrick Petronella's actions in the *Digna Lazaro v Souley Vegan, et al*, case (ADJ14808797) and the *Jose Lopreto Velasquez v Mater Montebello Limited Partnership, Amtrust*, case (ADJ10760875) evidence similar behavior.

The WCJ concluded that:

Patrick Petronella's actions thus far have demonstrated a pattern of behavior showing a lack of respect to this Court's processes and proceedings, a disregard for this Court's time, a disregard for Defendants' time, and an unwillingness to engage in appropriate and expeditious resolution of the lien claims he represents. His failure or refusal to appear at multiple conferences and lien trials in front of the undersigned WCJ appear to demonstrate a pattern of behavior resulting in conduct subject to sanctions pursuant to CCR §10421(b)(1).

The Amended NIT also gave notice that a hearing on the sanctions issue was set for February 26, 2024.

That same day, the WCJ *sua sponte* uploaded 17 documents from the *Lazaro* and *Velasquez* cases to support the NIT into the Electronic Adjudication Management System (EAMS), which were marked as Court's X1-X9 and Y1-Y8 for "ID ONLY."

On February 23, 2024, attorney Charles Rondeau (Rondeau) filed a Notice of Representation of Patrick Petronella.

On February 26, 2024, Rondeau filed a "Petition for Provision of a Court Reporter" for the lien conference.

Also, on February 26, 2024, the WCJ issued Minutes of Hearing continuing the matter. The "Comments" section of the Minutes of Hearing stated:

New counsel/representative for Mr. Petronela (sic) recently retained and needs additional time to review the record on the Velasquez case which was added on the Amended NOI dated 12/21/2023. Matter set on that Amended NOI only and all pending liens are bifurcated.

A lien conference was held on June 10, 2024 and the matter was set for trial.

In the June 10, 2024 Pre-trial Conference Statement (PTCS), Petronella objected that:

(1) whether the Court should be permitted to seek admission as exhibits on its own motion voluminous documents pertaining to cases other than Case No. ADJ1361491 to which neither Mr. Petronella nor his counsel have currently have access; (2) whether a further continuance of the lien conference should be granted

to allow Mr. Petronella and his counsel the opportunity to obtain and review such documents; (3) whether the Court has continuing jurisdiction to issue sanctions against Mr. Petronella in Case No. ADJ1361491 when his client's lien has been resolved.

The WCJ *sua sponte* completed an “Exhibits” page on behalf of the Appeals Board and listed 21 exhibits, which included 1) three exhibits from the current case (*Gutierrez*), marked Court’s W1-W3; 2) nine exhibits from the *Lazaro* case (ADJ14808797), marked Court’s X1-X9; and 3) nine exhibits from the *Velasquez* case (ADJ10760875), marked Court’s Y1-Y9. (PTCS, June 10, 2024, p. 5.)

The matter proceeded to a hearing on the Amended NIT on September 25, 2024. Petronella was the sole witness to testify. According to the Minutes of Hearing and Summary of Evidence (MOH/SOE), Petronella’s testimony was summarized, in part, as follows:

On 4-17-2023, he recalls those proceedings. He was representing the lien claimant, United Services Plus. He recalls calling into the conference line just before the hearing started at 8:28 or 8:29 in the morning. He has the phone records to review that day.

Witness testified that he has that record in front of him. On that day, there is a reference to a call placed 10:29 Central time, which would have made it 8:29 Pacific time. That is when he called into the conference line.

Witness testified that when he called in, there was silence until the judge joined the conference call. He estimates the conference began two to five minutes after he joined. The judge came on the line and called the calendar.

His case was one of the later cases, he believes. There was a callback time given.

\* \* \*

Witness testified that when he called in at 8:29, he was on the line for not that long. According to his records, it was only seven minutes. He could hear WCJ speaking. He attempted to register his appearance that day. He did not hear an acknowledgement from the judge that day. He heard Defendant, Gohar, and another lien rep on the phone.

Witness testified that he was given a callback time of 9:15. In between, he talked to Gohar. He called back in at the prescribed call time at 9:12.

Witness testified that he had a discussion with the judge at that time upon his return, since he was early to the line and he was unsure if the judge recorded his

appearance. The judge stated that he was not on the line at 8:30 and did not state his appearance at that time.

At that point, the judge accused him of “backdooring” his appearance late. He explained that he was not trying to backdoor his appearance. He also said that he would not have known the callback time if he was not on the line at 8:30 and he was making sure his appearance was noted.

(MOH/SOE, September 25, 2024, pp. 5-6.)

During the lien trial, the WCJ introduced Court’s W1-W2, X1-X9, and Y1-Y8 for “For Identification Only.” (MOH/SOE, September 25, 2024, pp. 3-5.) The WCJ also admitted Court’s W3 (MOH, April 17, 2023) and Lien Claimant’s Exhibit 1 (a cellular telephone call log dated May 12, 2023.) During trial, Mr. Petronella objected to some of the Court’s exhibits, claiming that he had never received them prior to the lien hearing. (*Id.* at pp. 7-8.)

On December 16, 2024, the WCJ issued a Findings and Orders (F&O).

On January 3, 2025, Petronella filed a Petition for Reconsideration. In his Petition, he requested that the F&O be vacated on the grounds that he was not served with the Court’s exhibits prior to the September 25, 2024 lien hearing.

On January 15, 2025, the WCJ issued an Order Vacating Submission and Order Setting Aside the Amended Findings and Orders and Notice of Lien Conference. The Order stated:

In order to allow respondent another opportunity to address all the issues raised in the Amended Notice of Intent to Impose Sanctions dated 12/21/2023, the Court will set-aside that Findings and Order and Opinion on Decision on 12/16/2024 and reserve all the documents listed as Court’s Exhibits on respondent. Those documents are being re-served by the Court along with this Order Vacating Submission and Order Setting Aside the Amended Findings and Orders and Notice of Hearing on respondent and his counsel of record.

Good cause appearing therefore, **IT IS ORDERED** that submission is hereby **VACATED**, the Findings and Orders and Opinion on Decision on 12/16/2024 are **SET-ASIDE**, and the matter be **RESET** for Lien Conference.

**NOTICE IS HEREBY GIVEN** that the above-entitled matter be set for Lien Conference before the undersigned WCJ at the time and place specified below:

**DATE:** 3/10/2025

**TIME:** 1:30 P.M.

**PLACE:** CourtCall Virtual Conference Room

**JUDGE:** Peter M. Christiano

(Order Vacating Submission and Order Setting Aside the Amended Findings and Orders and Notice of Lien Conference, January 15, 2025.)

On March 10, 2025, the lien conference began at the scheduled time of 1:30 p.m. According to the “Comments” portion of the Minutes of Hearing:

Patrick Petronella showed up at 2:15 pm for this hearing claiming the matter was not on his calendar and claims he has a medical appointment at 2:30 pm. No appearance by Mr. Petronella’s attorney.

The matter was continued at Petronella’s request.

After a series of additional continuances, the matter returned to the trial calendar on August 21, 2025. No additional evidence or testimony was presented and the matter stood resubmitted. (MOH/SOE, August 21, 2025.)

On November 18, 2025, the WCJ issued the disputed F&O imposing sanctions against Petronella in the amount of \$2,500.00 pursuant to section 5813 and WCAB Rule 10421, stating, in part:

On December 21, 2023, this Court issued the Amended Notice of Intent to Impose Sanctions against respondent, Patrick Petronella. That Amended Notice of Intent was in response to the WCAB’s Opinion and Order Granting Reconsideration and Decision after Reconsideration (EAMS DOC ID 77144865).

As indicated in that Amended Notice of Intent, Labor Code § 5813 permits the imposition of sanctions of up to \$2,500.00 against a party who engages in bad faith actions or tactics that are frivolous or solely intended to cause delay. Labor Code § 5813(b) provides that “[t]he determination of sanctions shall be made after written application by the party seeking sanctions or upon the appeals board’s own motion.” Pursuant to CCR § 10421(b)(1), violations subject to the provisions of Labor Code § 5813 shall include, but are not limited to, the “[f]ailure to appear or appearing late at a conference or trial where a reasonable excuse is not offered or the offending party has demonstrated a pattern of such conduct.”

As detailed in that Amended Notice of Intent, the Court identified multiple instances of respondent’s pattern of showing up late or not showing at all to conferences and trials, and not respecting this Court’s time or its processes and procedures. These included in the instant matter, Patrick Petronella made his first appearance at the 4/17/2023 lien conference in front of the undersigned WCJ at the second call of the case some 45 minutes after the hearing had commenced. Respondent offered no reasonable explanation for actions that morning, for his refusal to participate in this Court’s proceedings or his basis for ignoring those proceedings.

Next, on the *Digna Lazaro v Souley Vegan, et al*, case (ADJ14808797), respondent failed to appear at the lien trial scheduled on 4/11/2023 in front of the undersigned WCJ. Instead, respondent was involved in another matter, in front of WCJ Morgan in the case of *Maria Chavarria v Carousel Kid Child Development Center* (ADJ14919712).

Finally, and subsequent to the first Notice of Intent issued by the Court dated 4/17/2023, on the *Jose Lopreto Velasquez v Mater Montebello Limited Partnership, Amtrust*, case (ADJ10760875), respondent failed to appear at two lien trials in front of the undersigned WCJ on 6/21/2023 and 8/15/2023.

\* \* \*

Based upon all of the above, it is Found that respondent's actions, in failing to timely show up for conferences and hearings before this Court, as detailed above and in the Amended Notice of Intent to Impose Sanctions dated 12/21/2023, demonstrate a pattern of behavior showing a lack of respect to this Court's processes and proceedings, a disregard for this Court's time, a disregard for Defendants' time, and an unwillingness to engage in appropriate and expeditious resolution of the lien claims he represents. His failure or refusal to timely appear at multiple conferences and hearings in front of the undersigned WCJ demonstrate a pattern of behavior resulting in conduct subject to sanctions pursuant to CCR §10421(b)(1).

(Amended Opinion on Decision, November 18, 2025, pp. 3-4, 6-7.)

On December 8, 2025, Petronella filed the instant Petition for Reconsideration. In the Petition, Petronella contends that there is insufficient evidence to support the Order imposing sanctions.

### III.

First, we consider the issue of whether the WCJ properly imposed sanctions in the amount of \$2,500.00 against Petronella for failing to appear at one or more lien conferences in violation of section 5813 and WCAB Rule 10421.

Section 5813 authorizes the WCJ to order a party or attorney to pay reasonable expenses incurred by another party as a result of "bad-faith actions or tactics that are frivolous or solely intended to cause unnecessary delay." (Lab. Code, § 5813.)

WCAB Rule 10421 provides guidance for determining whether conduct is sanctionable under section 5813 and includes specific examples of potentially sanctionable conduct. WCAB Rule 10421 states that "Bad faith actions or tactics shall include but are not limited to ..."

- (1) Failure to appear or appearing late at a conference or trial where a reasonable excuse is not offered or the offending party has demonstrated a pattern of such conduct.

(Cal. Code Regs., tit. 8, § 10421(b)(1).)

WCAB Rule 10872 provides:

- (a) Within seven days after a lien has been resolved or withdrawn, the lien claimant shall file and serve a notification of resolution or withdrawal of lien claim. For purposes of this rule, a lien is not resolved unless payment in accordance with an order or an informal agreement has been made and received.
- (b) The lien claimant ***shall appear at any hearing that was noticed prior to the resolution or withdrawal of the lien unless excused by the Workers' Compensation Appeals Board.*** The lien claimant shall be excused from appearing at any subsequently noticed hearing.
- (c) Any violation of this rule ***may*** give rise to monetary sanctions, attorney's fees and costs under Labor Code section 5813 and Rule 10421.

(Cal. Code Regs., tit 8, § 10872, bold and italics added for emphasis.)

Decisions of the Appeals Board “must be based on admitted evidence in the record.” (*Hamilton v. Lockheed Corporation (Hamilton)* (2001) 66 Cal.Comp.Cases 473, 476 (Appeals Board En Banc).) An adequate and complete record is necessary to understand the basis for the WCJ's decision and the WCJ shall “. . . make and file findings upon all facts involved in the controversy[.]” (Lab. Code, § 5313; *Hamilton, supra*, at p. 476.) The WCJ's decision must “set[] forth clearly and concisely the reasons for the decision made on each issue, and the evidence relied on,” so that “the parties, and the Board if reconsideration is sought, [can] ascertain the basis for the decision[.] . . . For the opinion on decision to be meaningful, the WCJ must refer with specificity to an adequate and completely developed record.” (*Hamilton at p. 476, citing Evans v. Workmen's Comp. Appeals Bd. (1968) 68 Cal.2d 753, 755.*) The purpose of the requirement is “to assist the reviewing court to ascertain the principles relied upon by the lower tribunal, to help that tribunal avoid careless or arbitrary action, and to make the right of appeal or of seeking review more meaningful.” (*Evans, supra*, at p. 755.)

As noted above, the Appeals Board is authorized to impose sanctions, costs and attorney's fees under section 5813, and sanctions under section 5813 are designed to punish litigation abuses and to provide the court with a tool for curbing improper legal tactics and controlling their calendars. (*Duncan v. Workers' Comp. Appeals Bd. (2008) 166 Cal.App.4th 294, 302.*)

Accordingly, sanctions are similar to penalties under section 5814, in that they are designed to have both remedial and penal aspects. (See *Ramirez v. Drive Financial Services* (2008) 73 Cal.Comp.Cases 1324 (Appeals Board En Banc).)

As discussed above, the WCJ sanctioned Petronella pursuant to WCAB Rule 10421(b) for two reasons: 1) failure to properly appear during the initial April 17, 2023 lien hearing, and 2) engaging in a pattern of such behavior. We will address the evidentiary basis for each finding in turn.

As to the April 17, 2023 hearing, Petronella contended that he signed in several minutes before the initial hearing, scheduled for 8:30 a.m., and stated his appearance, but that, for some reason, the WCJ did not hear him. Petronella contended that his single exhibit, a cellular call log showing that a phone call was made at 8:29 a.m., on April 17, 2023 to an unidentified telephone number proves that this was the case. (Lien Claimant's) The WCJ considered this evidence, weighed it, and ultimately rejected it. The WCJ stated that simply dialing into a hearing is not a sufficient "appearance," and constitutes behavior sanctionable under WCAB Rule 10421(b). Specifically, the WCJ explained:

Labor Code § 5813(b) provides that "[t]he determination of sanctions shall be made after written application by the party seeking sanctions or upon the appeals board's own motion." Pursuant to CCR § 10421(b)(1), violations subject to the provisions of Labor Code § 5813 shall include, but are not limited to, the "[f]ailure to appear or appearing late at a conference or trial where a reasonable excuse is not offered or the offending party has demonstrated a pattern of such conduct.

\* \* \*

Simply being on the phone at a lien conference is not enough for any representative to be considered "making their appearance" before the Court. More is needed from any party appearing before this Court to make their appearance known as to who they are and who they are representing. Respondent admits, in his testimony, that he failed to do that.

(Amended Opinion on Decision, November 18, 2025, pp. 4-5.)

While we agree with the WCJ as to the duties of a representative appearing at any type of conference, unlike an in-person hearing, such as a trial, it is often difficult to discern whether a party is on the line when they are in the waiting room. Additionally, a remote hearing provides potential challenges to the parties. We note that in this case, we do not believe that there is sufficient evidence to impose a sanction for the failure to appear at the April 17, 2023 hearing, as

there is no dispute that lien representative did, in fact appear, although potentially not at the initial hearing time of 8:30 a.m.

Secondly, there is insufficient evidence presented to conclude a pattern of practice by this lien representative to support the \$2,500.00 sanction. The WCJ's finding that Petronella engaged in a pattern of non-appearance or untimely appearances sanctionable under WCAB Rule 10421(b)(1) was based upon the evidence admitted from the *Lazaro* and *Velasquez* cases. (Court's Y1-Y8, X1-X9.) The WCJ determined that this evidence showed that Petronella failed to appear for multiple lien trials in multiple cases, such that a pattern of sanctionable conduct under WCAB Rule 10421(b)(1) was established. However, upon review, with the exception a Petition for Costs/Sanctions filed by defense counsel in *Lazaro* alleging that Petronella failed to appear for a lien trial (Court's Ex. Y6), none of the exhibits, while occasionally noting non-appearance by a lien representative, actually mention Petronella *by name*. Thus, we are not persuaded by the WCJ's finding that Petronella engaged in a "pattern" of conduct sanctionable under WCAB Rule 10421(b)(1), as it is not supported by substantial evidence.

While the WCJ is correct that he has the right to control his courtroom, the WCJ does not have the right to exercise that control in an arbitrary manner that infringes on the due process rights of parties. All parties to a workers' compensation proceeding retain the fundamental right to due process and a fair hearing 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].) A fair hearing includes but is not limited to the opportunity to call and cross-examine witnesses; introduce and inspect exhibits; and to offer evidence in rebuttal. (*Gangwish v. Workers' Comp. Appeals Bd.* (2001) 89 Cal.App.4th 1284, 1295 [66 Cal.Comp.Cases 584]; *Rucker, supra*, at pp. 157-158 citing *Kaiser Co. v. Industrial Acci. Com. (Baskin)* (1952) 109 Cal.App.2d 54, 58 [17 Cal.Comp.Cases 21]; *Katzin v. Workers' Comp. Appeals Bd.* (1992) 5 Cal.App.4th 703, 710 [57 Cal.Comp.Cases 230].)

Thus, as stated above, we also treat Petronella's Petition as one for disqualification as well as one for reconsideration. Section 5311 provides that a party may seek to disqualify a WCJ upon any one or more of the grounds specified in Code of Civil Procedure section 641. (Lab. Code, § 5311; see also Code Civ. Proc., § 641.) WCAB Rule 10960 provides in relevant part that:

Proceedings to disqualify a workers' compensation judge under Labor Code section 5311 shall be initiated by the filing of a petition for disqualification supported by an affidavit or declaration under penalty of perjury stating in detail facts

establishing one or more of the grounds for disqualification specified in section 641 of the Code of Civil Procedure. . . .

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A petition for disqualification shall be referred to and determined by a panel of three commissioners of the Appeals Board in the same manner as a petition for reconsideration.

(Cal. Code Regs., tit. 8, § 10960.)

Among the grounds for disqualification under section 641 are that the WCJ has “formed or expressed an unqualified opinion or belief as to the merits of the action” or demonstrated “[t]he existence of a state of mind . . . evincing enmity against or bias toward either party.” (Code Civ. Proc., § 641(f) and (g)). “Due Process is violated where there is even an appearance of bias or unfairness in administrative hearings. (citations)” (*Robbins v. Sharp Healthcare, et al.* (2006) 71 Cal.Comp.Cases 1291, 1302 [2006 Cal.Wrk.Comp. LEXIS 314].) The appearance of bias on the part of the WCJ may be sufficient alone to require disqualification. An objective test is used to assess whether an appearance of bias exists: whether a person aware of the facts might reasonably entertain a doubt that the judge would be able to act with impartiality (*Robbins, supra*, 71 Cal.Comp.Cases at p. 1307). Further, bias against a party’s attorney may be a ground for disqualification. (*Id.* at p. 1306).

We conclude that the actions of WCJ Christiano toward Petronella could reasonably raise doubts as to whether WCJ Christiano has formed an opinion regarding the merits of these matters based on his choice to go beyond the record and conduct a separate investigation, as well as raise doubts regarding the *appearance* of unfairness or bias in a reasonable person with knowledge of the facts of this case. Given that the unilateral actions of the WCJ as described herein actually resulted in a deprivation of Petronella’s right to due process, we conclude that the parties would be better served by a reassignment to another WCJ. Finally, based upon the lengthy and contentious history involving this lien representative and the WCJ, pursuant to our authority under section 5310, we also conclude that it would best serve the parties to return this matter to the Presiding Judge for reassignment to another WCJ. (Lab. Code, § 5310.)

Nonetheless, we do find it necessary to admonish lien representative and their legal counsel for the tone throughout the Petition for Reconsideration.

Under WCAB Rule 10421(b)(9), bad-faith actions include:

(9) Using any language or gesture at or in connection with any hearing, or using any language in any pleading or other document:

(A) Where the language or gesture:

- (i) Is directed to the Workers' Compensation Appeals Board, to any of its officials or staff or to any party (or the attorney or non-attorney representative for a party); and
- (ii) Is patently insulting, offensive, insolent, intemperate, foul, vulgar, obscene, abusive or disrespectful; or

(B) Where the language or gesture impugns the integrity of the Workers' Compensation Appeals Board or its commissioners, judges or staff.

(Cal. Code Regs., tit. 8, § 10421(b)(9).)

Petronella's Petition for Reconsideration is replete with disrespectful, intemperate, and unprofessional language aimed toward the WCJ that impugned the WCJ's integrity. For instance, on page 2, Petronella accuses the WCJ of having "a resolute and unshakable determination to issue an order imposing sanctions against Petitioner at all costs." (Petition, p. 2.) Petronella further asserts that "In his Opinion on Decision, the WCALJ takes every turn to cast Petitioner and the undersigned as villains in the drama of these proceedings while portraying himself as the blameless, dispassionate decision maker seeking only to uncover the truth." (Petition, p. 10.) The Petition also describes that the WCJ's word choice in one instance as having a "snarky tone" and opines that the WCJ "learned nothing from the Appeals Board's clear and unqualified admonishment that he must provide evidence (as opposed to his personal beliefs) to support his assertions." (Petition, pp. 12, 14.) Perhaps most flagrantly of all, Petronella attempts to justify the use of impertinent language against the WCJ. (Petition, p. 2.) We reiterate that respect for the court must be upheld at all times and is never justified.

***We admonish Patrick Petronella and Charles Rondeau for the disrespectful and insulting tone reflected in the Petition, and advise them that any such conduct in the future may result in the imposition of sanctions. (See Lab. Code, § 5813; see also Cal. Code Regs., tit. 8, § 10421(b)(9).)***

Accordingly, for the reasons discussed above, we do not believe that the evidence supports the imposition of sanctions against Petronella, and we grant the Petition for Reconsideration and rescind the F&O and grant the Petition for Disqualification and order that the matter be returned to the Presiding WCJ for assignment to a new WCJ.

For the foregoing reasons,

**IT IS ORDERED** that lien representative's Petition for Reconsideration of the Amended Findings and Order of November 18, 2025 is **GRANTED**.

**IT IS FURTHER ORDERED** as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the Amended Findings and Orders of November 18, 2025 is **RESCINDED**.

**IT IS FURTHER ORDERED** that lien representative's Petition for Disqualification of workers' compensation administrative law judge Peter M. Christiano is **GRANTED**.

**IT IS FURTHER ORDERED** as the Decision After Disqualification of the Workers' Compensation Appeals Board that WCJ Peter M. Christiano is **DISQUALIFIED** and the matter is **RETURNED** to the presiding workers' compensation administrative law judge of the Long Beach District Office to **REASSIGN** this matter to a workers' compensation administrative law judge other than WCJ Peter M. Christiano.

**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**

**February 23, 2026**

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

**JOSE GUTIERREZ  
PATRICK PETRONELLA  
RONDEAU LAW  
UNITED SERVICES PLUS  
COLLECTIVE RESOURCES**

**AC/mt**

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