

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

LUIS ESTPUINIAN, *Applicant*

vs.

**SIMPLIFIED LABOR STAFFING SOLUTIONS INC.;
SUNZ INSURANCE COMPANY, administered by NEXT LEVEL FOLSOM, *Defendants***

**Adjudication Numbers: ADJ21245782; ADJ21659679
Anaheim District Office**

**OPINION AND ORDER
DISMISSING PETITION FOR
RECONSIDERATION**

Defendant seeks reconsideration of the Joint Order Approving Compromise and Release (OACR) issued by the workers' compensation administrative law judge (WCJ) on October 16, 2025. Defendant alleges the OACR was procured by mutual mistake of fact regarding the existence of separate legal representation for applicant with respect to the same date of injury.

We did not receive an answer from applicant. The WCJ issued a Report and Recommendation on Petition for Reconsideration (Report) recommending that the Petition be dismissed and the matter returned to the trial level for further proceedings.

We have considered the allegations of the Petition and the contents of the Report of the WCJ with respect thereto. Based on our review of the record, for the reasons stated in the WCJ's Report as quoted below, and for the reasons discussed below, we will dismiss the Petition as premature and return this matter to the trial level for consideration of the Petition as one to set aside the OACR.

FACTS

As described by the WCJ in the Report, the basic summary of facts are as follows:

* * *

Please note that a trial was never held on these matters.

As to ADJ21659679, the applicant while employed by Employers HR (Simplified Labor Solutions) as a warehouse worker claimed a continuous trauma injury from July 1, 2024 through May 11, 2025 to his neck, psyche, back, knee and “multiple” body parts. As to ADJ21245782, the applicant while employed by Employers HR (Simplified Labor Solutions) as a warehouse worker claimed a specific injury on July 22, 2024 to the same body parts. For both dates of injury, the employer was insured by Sunz Insurance Company. Both of these cases are venued at the Anaheim Workers’ Compensation Appeals Board.

Defendants walked through a Joint Compromise and Release on October 16, 2025. Based upon the representations of defendants, a review of the file and the settlement document, an Order Approving issued on October 16, 2025.

Defendants have now filed a Petition for Reconsideration requesting that the order be set aside claiming that there was a mutual mistake of fact in that the applicant filed a duplicative case for the specific injury with another attorney at a different venue. Defendants assert that this may affect attorney fees and that there may have been a different settlement had they known of the other case. They assert that there may be a conflict of interest given two different attorneys.

* * *

[T]he applicant filed two applications at the Anaheim Workers’ Compensation Appeals Board, one for a continuous trauma injury and another for a specific injury. The defendants walked through the settlement document and requested that a joint order approving the compromise and release issue. The same issued. Defendants have now filed a Petition for Reconsideration requesting that the order be vacated. Apparently, there were two filings for the specific injury -- one in Anaheim which is ADJ21145782. Please note defendants requested that a case number be assigned for the specific injury. Per defendants there is another claim filed for the specific injury, filed by a different attorney, which is assigned ADJ21230094, that they were unaware of. EAMS shows that that case is venued in Santa Ana. The parts of body per the application are neck, knee, leg, back and hips. The defendant employer is the same.

(Report, November 4, 2025, p. 1, ¶ 1-p. 2, ¶ 4.)

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, Labor Code 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 Labor Code 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 November 4, 2025 and 60 days from the date of transmission is Saturday, January 3, 2026. The next business day that is 60 days from the date of transmission Monday, January 5, 2026. (See Cal. Code Regs., tit. 8, § 10600(b).)¹ This decision is issued by or on Monday, January 5, 2026, so that we have timely acted on the petition as required by Labor Code section 5909(a).

Labor Code 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. Labor Code section 5909(b)(2) 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 November 4, 2025, and the case

¹ 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.

was transmitted to the Appeals Board on November 4, 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 Labor Code section 5909(b)(1) because service of the Report in compliance with Labor Code section 5909(b)(2) provided them with actual notice as to the commencement of the 60-day period on November 4, 2025.

II.

The Appeals Board has continuing jurisdiction to “rescind, alter, or amend any order, decision, or award,” if a petition is filed within five years of the date of injury and “good cause” to reopen is shown. (Lab. Code, §§ 5803, 5804.) An OACR is an order that may be reopened for “good cause” under Labor Code section 5803. “Good cause” includes fraud, duress, undue influence, mutual mistake of fact, mistake of law, invalidity of execution, incompetency, or minority at the time of execution of the agreement. (See California Workers’ Compensation Law (Cont. Ed. Bar 4th Ed.) §§ 16.61 et seq.; see also *Argonaut Ins. Exch. v. Industrial Acc. Com.* (1958) 49 Cal.2d 706 [23 Cal.Comp.Cases 34]; *Smith v. Workers’ Comp. Appeals Bd.* (1985) 168 Cal.App.3d 1160 [50 Cal.Comp.Cases 311]; *Carmichael v. Industrial Acc. Com.* (1965) 234 Cal.App.2d 311 [30 Cal.Comp.Cases 169]; *Silva v. Industrial Acc. Com.* (1924) 68 Cal. App. 510 [11 IAC 266]; *City of Beverly Hills v. Workers’ Comp. Appeals Bd.* (1997) 62 Cal.Comp.Cases 1691 (writ den.); *Bullocks, Inc. v. Industrial Acc. Com.* (1951) 16 Cal.Comp.Cases 253 (writ den.); *Pac. Indem. Co. v. Industrial Acc. Com.* (1946) 11 Cal.Comp.Cases 117 (writ den.).) Whether good cause exists is case specific. The circumstances surrounding the execution and approval of the agreement must be assessed. (See Lab. Code, § 5702; *Weatherall*, supra, 77 Cal.App.4th at pp. 1118-1121; *Robinson v. Workers’ Comp. Appeals Bd.* (1987) 199 Cal.App.3d 784, 790-792 [52 Cal.Comp.Cases 419]; *Huston v. Workers’ Comp. Appeals Bd.* (1979) 95 Cal.App.3d 856, 864-867 [44 Cal.Comp.Cases 798].)

Further, “[t]he Workers’ Compensation Appeals Board shall inquire into the adequacy of all Compromise and Release agreements and Stipulations with Request for Award, and may set the matter for hearing to take evidence when necessary to determine whether the agreement should be approved or disapproved, or issue findings and awards.” (Cal. Code Regs., tit. 8, § 10700(b).)

As part of our inquiry, we observe that contract principles apply to settlements of workers' compensation disputes, and "[t]he legal principles governing compromise and release agreements are the same as those governing other contracts." (*Burbank Studios v. Workers' Co. Appeals Bd. (Yount)* (1982) 134 Cal.App.3d 929, 935 [47 Cal.Comp.Cases 832].) For a compromise and release agreement to be valid and enforceable, the elements of a contract must be satisfied, including offer of settlement and acceptance. (*Id.*)

Mutual consent of the parties is also an essential element of a contract because there can be no contract unless there is a meeting of the minds and the parties mutually agree upon the same thing in the same sense. (Civ. Code, §§ 1550, 1565, 1580; *German Sav. & Loan Soc. v. McLellan* (1908) 154 Cal. 710, 716; *Sackett v. Starr* (1949) 95 Cal.App.2d 128, 133.) "A contract must be so interpreted as to give effect to the mutual intention of the parties as it existed at the time of contracting, so far as the same is ascertainable and lawful. [Citations.]" (*County of San Joaquin v. Workers' Compensation Appeals Bd. (Sepulveda)* (2004) 117 Cal.App.4th 1180, 1184 [69 Cal.Comp.Cases 193].)

Additionally, there must be a complete record for our review of the case. "[A] proper record enables any reviewing tribunal, be it the Board on reconsideration or a court on further appeal, to understand the basis for the decision." (*Hamilton v. Lockheed Corporation* (2001) 66 Cal.Comp.Cases 473, 475 (Appeals Bd. en banc).) Moreover, all parties to a workers' compensation proceeding retain their 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 offer evidence in rebuttal. (*Gangwish v. Workers' Comp. Appeals Bd.* (2001) 89 Cal.App.4th 1284, 1295 [66 Cal.Comp.Cases 584]; *Rucker*, supra, 82 Cal.App.4th at pp. 157-158, citing *Kaiser Co. v. Industrial Acc. Com.* (1952) 109 Cal.App.2d 54, 58 [17 Cal.Comp.Cases 21]; *Katzin v. Workers' Comp. Appeals Bd.* (1992) 5 Cal.App.4th 703, 710-712 [57 Cal.Comp.Cases 230].)

Decisions of the Appeals Board "must be based on admitted evidence in the record" (*Hamilton*, supra, at 476), and must be supported by substantial evidence (Lab. Code, §§ 5903, 5952(d); *Lamb v. Workmen's Comp. Appeals Bd.* (1974) 11 Cal.3d 274 [39 Cal.Comp.Cases 310]; *Garza v. Workmen's Comp. Appeals Bd.* (1970) 3 Cal.3d 312 [35 Cal.Comp.Cases 500]; *LeVesque v. Workmen's Comp. Appeals Bd.* (1970) 1 Cal.3d 627 [35 Cal.Comp.Cases 16]). As required by

Labor Code section 5313 and explained in *Hamilton*, “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.” (*Hamilton, supra*, at p. 475.)

In the Report, the WCJ explains as follows:

Respectfully, defendant’s Petition for Reconsideration is premature. Defendants should have filed a Petition to Set Aside the Compromise and Release. At this time there is no record indicating that there was a mutual mistake of fact and the undersigned believes that this matter should be returned to the Judge and the case set for hearing to address if there is good cause to set aside the Compromise and Release. The merits of defendant’s arguments cannot be addressed without a record being developed.

* * *

It is recommended that the Petition for Reconsideration be **DISMISSED** and the matter remanded.

(Report, November 4, 2025, p. 2, ¶ 5-p. 3, ¶ 2.)

We agree. In the absence of a record, we are unable to evaluate whether setting aside the OACR is appropriate. Consequently, we dismiss the Petition for Reconsideration as premature and return the matter to the WCJ for further proceedings consistent with this opinion. Upon return of this matter to the trial level, the WCJ may treat the Petition as a petition to set aside the OACR, conduct further proceedings, and create a record on which a decision can be made as to whether there are grounds for setting aside the OACR.

In dismissing the Petition in the instant case, we remind the WCJ that WCAB Rule 10961 (Cal. Code Regs., tit. 8, § 10961) provides that jurisdiction remains with the district office for *15 days* after the timely filing of a petition for reconsideration and sets forth three actions that a WCJ may take in response: (a) 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); (b) The WCJ may rescind the entire order, decision or award and initiate proceedings within 30 days (Cal. Code Regs., tit. 8, § 10961(b)); or (c) 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)).

When a WCJ issues an order rescinding or amending pursuant to subdivision (b) or (c) within the 15-day period, the original order, decision or award no longer exists. The Appeals Board need not act upon the petition for reconsideration, and it is presumed to be moot. The purpose of the 15-day period in WCAB Rule 10961 is to allow the WCJ time to respond to the petition for reconsideration. In contrast, if the WCJ does not issue an order rescinding or amending the original order, decision or award during the 15-day period, the Appeals Board must act on the petition for reconsideration even if the WCJ determines that the original order, decision or award should have been amended or rescinded.

Here, defendant filed the Petition on October 27, 2025. The WCJ filed the Report on November 4, 2025, which is within 15 days of the timely filing of a petition for reconsideration. The WCJ had the option to rescind the OACR and either initiate further proceedings within 30 days or issue an amended OACR. (Cal. Code Regs., tit. 8, § 10961.) Here, such further proceedings would be the creation of and/or development of the record as stated above, and as recommended by the WCJ in her Report. Instead, pursuant to WCAB Rule 10961(a), the WCJ prepared a Report and Recommendation on Petition for Reconsideration, and transmitted the case to the Appeals Board, despite recommending in the Report that the Petition should be dismissed and returned to the WCJ to develop the record and address whether good cause exists to set aside the OACR. (Report, November 4, 2025, p. 2, ¶ 5-p. 3, ¶ 2.)

In a case such as this, we reiterate that the option exists, within the time limits prescribed by WCAB Rule 10961, to allow a WCJ the opportunity to rescind the entire decision, order or award, and per WCAB Rule 10961(b), initiate further proceedings at the trial level should the same be the recommendation by the WCJ in the Report. This course of action reduces overall delay and allows the matter to proceed without the need for Appeals Board action. The rights of any aggrieved parties would be protected because they may then seek reconsideration of any new or amended order, decision or award by the WCJ.

Accordingly, we dismiss the Petition for Reconsideration as premature and return the matter to the trial level for further proceedings consistent with this opinion.

For the foregoing reasons,

IT IS ORDERED that the Petition for Reconsideration is **DISMISSED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ JOSEPH V. CAPURRO, COMMISSIONER

/s/ PAUL F. KELLY, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

JANUARY 5, 2026

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

**LUIS ESTPUINIAN
MONTOKA LAW, APC
LAW OFFICES OF KARGOZAR & ASSOCIATES**

DC/cs

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