

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

**MARIA ALCARAZ, *Applicant***

**vs.**

**ADAMS VEGETABLE OILS; CALIFORNIA AGRICULTURAL PRODUCTS SELF-INSURED GROUP administered by LWP CLAIMS SOLUTIONS, INC.; ZENITH INSURANCE COMPANY; INSURANCE COMPANY OF THE WEST, *Defendants***

**Adjudication Numbers: ADJ15163501; ADJ15164001  
Sacramento District Office**

**OPINION AND ORDER  
GRANTING PETITION FOR  
RECONSIDERATION AND  
NOTICE OF INTENTION TO RESCIND  
ARBITRATOR'S DECISION**

Defendant, Adams Vegetable Oils, permissibly self-insured by California Agricultural Products Self-Insured Group (CAPSIG), seeks reconsideration or in the alternative removal of the Amended Findings and Order (F&O) issued on January 15, 2026, wherein the workers' compensation arbitrator (WCA) found, in relevant part, that applicant sustained a cumulative injury to her right elbow arising out of and occurring in the course of her employment (AOE/COE) with Adams Vegetable Oil Company up to March 9, 2020; applicant sustained a cumulative injury to her left shoulder AOE/COE with Adams Vegetable Oil Company up to February 1, 2021; applicant sustained a cumulative injury to her left hip (back) AOE/COE up to February 28, 2021. The WCA deferred the issue of contribution between the carriers due to insufficient evidence to decide the issue.

Defendant CAPSIG contends that the range of substantial medical evidence proves that applicant suffered one cumulative injury with a Labor Code<sup>1</sup> section 5412 date of injury of August 2, 2019, which is outside of their coverage period, and implicates only Zenith Insurance Company (Zenith) and Insurance Company of the West.

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

We received an Answer from co-defendant, Zenith. The WCA prepared a Report on Reconsideration (Report), recommending that the Petition be denied.

We have considered the allegations of the Petition for Reconsideration, the Answer and the Report of the WCA. Based on our review of the record, and for the reasons discussed below, we will grant the Petition and issue a Notice of Intention (NIT) to rescind the January 15, 2026 F&O unless all required documents per WCAB Rule 10995(c)(3) (Cal. Code Regs., tit. 8, § 10995(c)(3)) are filed in the Electronic Adjudication Management System (EAMS) within thirty (30) days after service of this decision, plus an additional five (5) days for mailing per WCAB Rule 10605 (Cal. Code Regs., tit. 8, § 10605).

### FACTS

We will briefly review the relevant facts as alleged in the Petition.

Adams Vegetable Oils employed applicant beginning on July 26, 2019. (Petition, at p. 2:4-8.) Effective October 1, 2019, Adams Vegetable Oils became self-insured through CAPSIG, whose coverage continued through applicant's last date of work on or about February 3, 2022. (*Id.*) Prior to October 1, 2019, Adams Vegetable Oils was insured by Insurance Company of the West. (*Id.*)

Before her employment with defendant Adams Vegetable Oils, applicant was employed by Chavez Farm Labor Contractors, whose insurance coverage was provided by Zenith. (*Id.* at p. 2:9-10.)

Applicant filed several claims for industrial injury while employed by Adams Vegetable Oils, and several have been partially resolved. (*Id.* at p. 2:12-14.)

In ADJ15163501, applicant filed an Application for Adjudication of Claim alleging she sustained cumulative injury AOE/COE while employed by Adams Vegetable Oils as a laborer during the period June 22, 2019 through June 22, 2020 to her left shoulder. (*Id.* at p. 2:19-20.)

In ADJ15164001, applicant filed an Application for Adjudication of Claim alleging she sustained cumulative injury AOE/COE while employed by Adams Vegetable Oils as a laborer during the period February 28, 2020 through February 28, 2021, to her left hip. (*Id.* at p. 2:25-26.)

Michael Sommer, M.D., served as an Agreed Medical Evaluator (AME) for all claims of injury as between applicant and Adams Vegetable Oils, while self-insured by CAPSIG. (*Id.* at p. 3:17-18.) However, there are no reports from Dr. Sommer in evidence.

On October 16, 2025, the matter proceeded to trial. (Transcript of Proceedings, Volume II, October 16, 2025.) On that day, the WCA listed the issues for determination, but the parties did not agree to them, and the WCA marked two “additional” Exhibits, Zenith’s AA-BB. (*Id.* at pp. 6:4-7:4; 7:8-16.) Zenith’s AA-BB are the only Exhibits currently filed evidence. There is no Transcript of Proceedings, Volume I, so it is unclear what additional exhibits were offered, marked, and entered into evidence by the WCA.

On January 1, 2026, the WCA issued a Findings and Order, and on January 15, 2026, the WCA issued an Amended F&O.

Defendant Adams Vegetable Oils CAPSIG seeks reconsideration and/or removal.

## DISCUSSION

### I.

Preliminarily, we note that former 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 February 12, 2026 and 60 days from the date of transmission is April 13, 2026. This decision was issued by or on April 13, 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 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.

Here, according to the proof of service for the Report and Recommendation by the WCA, the Report was served on February 10, 2026, and the case was transmitted to the Appeals Board on February 12, 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 the parties were not provided with accurate notice of transmission as required by section 5909(b)(1). While this failure to provide notice does not alter the time for the Appeals Board to act on the petition, we note that as a result the parties did not have notice of the commencement of the 60-day period on February 12, 2026.

## II.

A petition for reconsideration may properly be taken only from a “final” order, decision, or award. (Lab. Code, §§ 5900(a), 5902, 5903.) A “final” order has been defined as one that either “determines any substantive right or liability of those involved in the case” (*Rymer v. Hagler* (1989) 211 Cal.App.3d 1171, 1180; *Safeway Stores, Inc. v. Workers’ Comp. Appeals Bd. (Pointer)* (1980) 104 Cal.App.3d 528, 534-535 [45 Cal.Comp.Cases 410]; *Kaiser Foundation Hospitals v. Workers’ Comp. Appeals Bd. (Kramer)* (1978) 82 Cal.App.3d 39, 45 [43 Cal.Comp.Cases 661]) or determines a “threshold” issue that is fundamental to the claim for benefits (*Maranian v. Workers’ Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1070, 1075 [65 Cal.Comp.Cases 650]). Interlocutory procedural or evidentiary decisions, entered in the midst of the workers’ compensation proceedings, are not considered “final” orders. (*Id.* at p. 1075 [“interim orders, which do not decide a threshold issue, such as intermediate procedural or evidentiary decisions, are not ‘final’”]; *Rymer, supra*, at p. 1180 [“[t]he term [‘final’] does not include intermediate procedural orders or discovery orders”]; *Kramer, supra*, at p. 45 [“[t]he term [‘final’] does not

include intermediate procedural orders”].) Such interlocutory decisions include, but are not limited to, pre-trial orders regarding evidence, discovery, trial setting, venue, or similar issues.

Here, the orders issued by the WCA included final findings on the issues of employment, insurance coverage and AOE/COE. The inclusion of final findings renders the decision a final order for purposes of reconsideration, and thus we treat the Petition as one seeking reconsideration.

### III.

Only the Appeals Board is statutorily authorized to issue a decision on a petition for reconsideration. (Lab. Code, §§ 112, 115, 5301, 5901, 5908.5, 5950; see Cal. Code Regs., tit. 8, §§ 10320, 10330.) The Appeals Board must conduct de novo review as to the merits of the petition and review the entire proceedings in the case. (Lab. Code, §§ 5906, 5908; see Lab. Code, §§ 5301, 5315, 5701, 5911.) Once a final decision by the Appeals Board on the merits of the petition issues, the parties may seek review under section 5950, but appellate review is limited to review of the record certified by the Appeals Board. (Lab. Code, §§ 5901, 5951.)

A petition for reconsideration of an arbitrator’s decision or award made pursuant to the mandatory or voluntary arbitration provisions of sections 5270 through 5275 shall be filed in EAMS or with the district office having venue in accordance with section 5501.5. (Cal. Code Regs., tit. 8, § 10995.)

WCAB Rule 10995 further provides that if the arbitrator does not rescind the order, decision or award within 15 days of receiving the petition for reconsideration, the arbitrator is required to forward an electronic copy of their report and the complete arbitration file within 15 days after receiving the petition for reconsideration pursuant to WCAB Rule 10995(c)(3) (Cal. Code Regs., tit. 8, § 10995(c)(1)-(3)).

WCAB Rule 10914 requires the arbitrator to make and maintain the record of the arbitration proceeding, which must include the following:

- (1) Order Appointing Arbitrator;
- (2) Notices of appearance of the parties involved in the arbitration;
- (3) Minutes of the arbitration proceedings, identifying those present, the date of the proceeding, the disposition and those served with the minutes or the identification of the party designated to serve the minutes;

- (4) Pleadings, petitions, objections, briefs and responses filed by the parties with the arbitrator;
- (5) Exhibits filed by the parties;
- (6) Stipulations and issues entered into by the parties;
- (7) Arbitrator's Summary of Evidence containing evidentiary rulings, a description of exhibits admitted into evidence, the identification of witnesses who testified and summary of witness testimony;
- (8) Verbatim transcripts of witness testimony if witness testimony was taken under oath;
- (9) Findings, orders, awards, decisions and opinions on decision made by the arbitrator; and
- (10) Arbitrator's report on petition for reconsideration, removal or disqualification.

(Cal. Code Regs., tit. 8, § 10914(c).)

WCAB Rule 10803(a)(2) states in relevant part that:

- (a) The Workers' Compensation Appeals Board's adjudication file shall consist of:
  - (2) The record of proceedings, which consists of: the pleadings, minutes of hearing, summaries of evidence, certified transcripts, proofs of service, admitted evidence, exhibits identified but not admitted as evidence, notices, petitions, briefs, findings, orders, decisions and awards, opinions on decision, reports and recommendations on petitions for reconsideration and/or removal, and the arbitrator's file, if any. Each of these documents is part of the record of proceedings, whether maintained in paper or electronic form. Documents that are in the adjudication file but have not been received or offered as evidence are not part of the record of proceedings.

(Cal. Code Regs., tit. 8, § 10803(a)(2).)

WCAB Rule 10615 states in relevant part that:

All documents required or permitted to be filed under the rules of the Workers' Compensation Appeals Board shall be filed in EAMS<sup>2</sup> or with the district office

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<sup>2</sup> Pursuant to WCAB Rule 10305(j) (Cal. Code Regs., tit. 8, § 10305(j)):

“Electronic Adjudication Management System” or “EAMS” means the computerized case management system used by the Division of Workers' Compensation to electronically store and maintain adjudication files and to perform other case management functions.

having venue, except as otherwise provided by these rules or ordered or allowed by the Workers' Compensation Appeals Board.

(Cal. Code Regs., tit. 8, § 10615.)

The record does not contain the minutes of the arbitration proceedings or Transcript of Proceedings, Volume I which was apparently scheduled some time before October 16, 2025, identifying those present, the date of the proceeding, the disposition, whether there was testimony by any witnesses, and the summary thereof, as well as those served with the minutes or the identification of the party designated to serve the minutes. (Cal. Code Regs., tit. 8, § 10914(c)(3).) Nor does the record reflect the pleadings, petitions, objections, briefs and responses filed by the parties with the arbitrator, if any. (Cal. Code Regs., tit. 8, § 10914(c)(4).) Further, the record does not clearly reflect the exhibits offered by each party or objection thereto, if any, the evidence that was both admitted and/or marked for identification only at the first part of the trial proceeding, which occurred prior to October 16, 2025. (Cal. Code Regs., tit. 8, § 10914(c)(5).) Additionally, the record does not include the stipulations or issues entered into by the parties prior to October 16, 2025, other than that set forth in the October 16, 2025 Transcript. (Cal. Code Regs., tit. 8, § 10914(c)(6-7).)

The Appeals Board may not ignore due process for the sake of expediency. (*Barri v. Workers' Comp. Appeals Bd.* (2018) 28 Cal.App.5th 428, 469 [83 Cal.Comp.Cases 1643] [claimants in workers' compensation proceedings are not denied due process when proceedings are delayed in order to ensure compliance with the mandate to accomplish substantial justice]; *Rucker v. Workers' Comp. Appeals Bd.* (2000) 82 Cal.App.4th 151, 157-158 [65 Cal.Comp.Cases 805][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].) "Even though workers' compensation matters are to be handled expeditiously by the Board and its trial judges, administrative efficiency at the expense of due process is not permissible." (*Fremont Indem. Co. v. Workers' Comp. Appeals Bd.* (1984) 153 Cal.App.3d 965, 971 [49 Cal.Comp.Cases 288]; see *Ogden Entertainment Services v. Workers' Comp. Appeals Bd. (Von Ritzhoff)* (2014) 233 Cal.App.4th 970, 985 [80 Cal.Comp.Cases 1].)

The Appeals Board's constitutional requirement to accomplish substantial justice means that the Appeals Board must protect the due process rights of every person seeking reconsideration. (See *San Bernardino Cmty. Hosp. v. Workers' Comp. Appeals Bd.* (1999) 74 Cal.App.4th 928, 936 [64 Cal.Comp.Cases 986] ["essence of due process is...notice and the opportunity to be heard"];

*Katzin v. Workers' Comp. Appeals Bd.* (1992) 5 Cal.App.4th 703, 710 [57 Cal.Comp.Cases 230].) In fact, “a denial of due process renders the appeals board’s decision unreasonable...” and therefore vulnerable to a writ of review. (*Von Ritzhoff, supra*, 233 Cal.App.4th at p. 985 citing Lab. Code, § 5952(a), (c).) Thus, due process requires a meaningful consideration of the merits of every case de novo with a well-reasoned decision based on the evidentiary record and the relevant law.

As with a workers’ compensation administrative law judge (WCJ), an arbitrator’s decision must be based on admitted evidence and must be supported by substantial evidence. (*Hamilton v. Lockheed Corporation (Hamilton)* (2001) 66 Cal.Comp.Cases 473, 476 (Appeals Board en banc).) Meaningful review of an arbitrator’s decision requires that the “decision be based on an ascertainable and adequate record,” including “an *orderly identification* in the record of the evidence submitted by a party; and *what evidence is admitted or denied admission.*” (*Lewis v. Arlie Rogers & Sons* (2003) 69 Cal.Comp.Cases 490, 494, emphasis in original.) “An organized evidentiary record assists an arbitrator in rendering a decision, informs the parties what evidence will be utilized by the arbitrator in making a determination, preserves the rights of parties to object to proffered evidence, and affords meaningful review by the Board, or reviewing tribunal.” (*Id.*; see also *Evans v. Workmen’s Comp. Appeals Bd.* (1968) 68 Cal.2d 753 [a full and complete record allows for a meaningful right of reconsideration].)

Further, with limited exceptions, arbitrators shall have all of the statutory and regulatory duties and responsibilities of a workers’ compensation judge. (Cal. Lab. Code § 5272.) This may include delegation to the petitioner and/or the parties, the responsibility of ensuring that an electronic copy of a complete arbitration file is forwarded directly to the presiding workers’ compensation judge of the district office having venue over the matter. (Cal. Code. Regs., tit. 8 § 10995(c)(3).)

Here, we are unable to conduct meaningful review of the petition or render a decision until we have received a complete record including issues, stipulations and exhibits appropriately identified including the offering party. Thus, this is not a final decision on the merits of the Petition for Reconsideration, and once a final decision is issued by the Appeals Board, any aggrieved person may timely seek a writ of review pursuant to sections 5950 et seq.

Accordingly, we grant the Petition for Reconsideration, and issue Notice of our Intention to rescind the arbitrator's decision and return the matter to the arbitrator if a complete record of the proceedings as stated in WCAB Rule 10995(c)(3) is not filed in EAMS within thirty (30) days after service of this Notice (plus additional time for mailing) in accordance with AD Rule 10205.12(b).

For the foregoing reasons,

**IT IS ORDERED** that the Petition for Reconsideration filed by Adams Vegetable Oil CAPSIG of the decision issued by the WCA on January 15, 2026 is **GRANTED**.

**NOTICE IS FURTHER GIVEN** that within thirty (30) days after service of this decision plus additional time for mailing per WCAB Rule 10605(a) the required documents per WCAB Rule 10995(c)(3) must be filed in the Electronic Adjudication Management System (EAMS). If all documents are not properly filed in EAMS by that date, the January 15, 2026 decision by the workers' compensation arbitrator will be **RESCINDED** and the matter will be **RETURNED** to the arbitrator for further proceedings consistent with this opinion.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ KATHERINE WILLIAMS DODD, COMMISSIONER**

**I CONCUR,**

**/s/ JOSÉ H. RAZO, COMMISSIONER**

**/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER**



**DATED AND FILED AT SAN FRANCISCO, CALIFORNIA**

**April 13, 2026**

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

**MARIA ALCARAZ  
WINTERSTEEN CASAREZ  
ALBERT AND MACKENZIE  
CHERNOW PINE & WILLIAMS  
OMAR GONZALEZ  
GEORGE MASON**

**SL/oo**

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