

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

MARIA CASTANO SERRANO, *Applicant*

vs.

**MODERN HR, INC., NOWHERE VENICE LLC, dba EREWHON MARKET;
ZURICH AMERICAN INSURANCE COMPANY, *Defendants***

**Adjudication Numbers: ADJ21973060, ADJ21972572, ADJ21973830, ADJ22134600
Van Nuys District Office**

**OPINION AND DECISION
AFTER RECONSIDERATION**

We previously granted defendant's Petition for Reconsideration of the "Joint Order Approving Compromise and Release" (OACR) issued on February 17, 2026, by the workers' compensation administrative law judge (WCJ) in order to further study the factual and legal issues. This is our Opinion and Decision After Reconsideration.¹

On February 13, 2026, the WCJ issued an Order Approving Compromise and Release (OAC&R), however, the WCJ issued a notice of intention to reduce the requested attorney's fees to 10% (NIT).

Defendant contends that an order of attorney's fees as requested in the C&R should issue.

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

On June 23, 2026, defendant filed a petition seeking to withdraw its petition for reconsideration. However, the Appeals Board previously granted reconsideration in this matter, and on June 24, 2026, we issued our en banc decision in *Gaines, et. al., v. ABM Aviation, Inc., et. al.* (2026) 91 Cal.Comp.Cases ____; 2026 Cal. Wrk. Comp. LEXIS 32 (Appeals Board en banc). Based on our review of the record here, and as occasioned by our opinion in *Gaines*, we have

¹ The C&R is dated February 13, 2026, however it was served, and thus issued on February 17, 2026.

recognized additional issues that cannot be ignored. Accordingly, we will proceed with issuing a decision on the merits.

We have considered the allegations of the Petition for Reconsideration and the contents of the WCJ's Report. Based on our review of the record and for the reasons discussed below, as our Decision After Reconsideration, we will rescind the February 17, 2026 OACR and return this matter to the trial level to conduct adequacy review of the settlement and to create a record supporting the finding of adequacy.

FACTS

Per the WCJ's Report:

1. On January 27, 2026, the parties filed a Joint Compromise and Release on the above-referenced claims.
2. On February 13, 2026, this WCJ issued an Order Approving Compromise and Release and Notice of Intention.
3. The Notice of Intention read as follows: NOI re: Atty Fees – the court will award attorney's fees of 10% unless objection thereto is filed within 10 days. If there is no objection, AA is to e-file a proposed order releasing the fees. Defendant is to hold the fees in trust pending further court order.
4. On February 19, 2026, Defense filed a Transmittal Letter requesting an Amended Order Approving including the requested attorney's fees.
5. On March 3, 2026, Applicant's counsel filed their Fee Disclosure Statement.
6. On March 9, 2026, Defendant filed this Petition for Reconsideration requesting the attorney's fee of \$3,750.00 to the Applicant's Attorney.

(WCJ's Report, pp. 1-2.)

DISCUSSION

I.

A grant of reconsideration has the effect of causing "the whole subject matter [to be] reopened for further consideration and determination" (*Great Western Power Co. v. I.A.C. (Savercool)* (1923) 191 Cal.724, 729 [10 I.A.C. 322]) and of "[throwing] the entire record open

for review.” (*State Comp. Ins. Fund v. I.A.C. (George)* (1954) 125 Cal.App.2d 201, 203 [19 Cal.Comp.Cases 98].)

As discussed in *Gaines, supra*, sufficient information to establish adequacy must be contained in the court’s record when the settlement is approved.

It has long been held that a C&R must provide fair compensation to the injured worker equivalent to what the injured worker would expect to receive from an award:

A tort release is effective upon execution, but a compromise and release of workmen’s compensation liability is invalid until approved by the Workmen’s Compensation Appeals Board. (Lab. Code, § 5001; see *Chavez v. Industrial Acc. Com.* (1958) 49 Cal.2d 701, 702 [321 P.2d 449].) . . . This inquiry by the referee should carry out the legislative objective of “protecting workmen who might agree to unfortunate compromises because of economic pressure or lack of competent advice.” (*Chavez v. Industrial Acc. Com., supra*, 49 Cal.2d at p. 702.) These safeguards against improvident releases place a workmen’s compensation release upon a higher plane than a private contractual release; it is a judgment, with “the same force and effect as an award made after a full hearing.” (*Raischell & Cottrell, Inc. v. Workmen’s Comp. App. Bd.* (1967) 249 Cal.App.2d 991, 997 [58 Cal.Rptr. 159].)

(*Johnson v. Workmen’s Comp. Appeals Bd.* (1970) 2 Cal.3d 964, 973 [35 Cal.Comp.Cases 362]; see also, *Camacho v. Target* (2018) 24 Cal.App.5th 291, 301-302 [83 Cal.Comp.Cases 1014].)

In addition to the protection of injured workers, another purpose of adequacy review is to protect the public interest. (*Department of Rehabilitation v. Workers’ Comp. Appeals Bd.* (2003) 30 Cal.4th 1281, 1286 [68 Cal.Comp.Cases 831] [“The purpose of an award is not to make the employee whole for the loss which he or she has suffered, but to prevent the employee and his or her dependents from becoming public charges during the period of disability.”].) Workers’ compensation was created, in part, to prevent an injured worker from becoming a public ward. (*Ibid.*) Where benefits are due, they should be paid and the WCJ should ensure that payable benefits are not inappropriately shifted onto public systems, for example, Medicare, Medi-Cal, EDD, and Social Security. Adequacy review has the dual purpose of ensuring that an injured worker is appropriately paid benefits, which in turn benefits the public.

WCAB Rule 10700 states, in pertinent part:

(b) The 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.

(c) Agreements that provide for the payment of less than the full amount of compensation due or to become due and undertake to release the employer from all future liability will be approved only where it appears that a reasonable doubt exists as to the rights of the parties or that approval is in the best interest of the parties.

(Cal. Code Regs., tit. 8, § 10700(b).)

(*Id.* at pp. 30-31.)

We have reviewed the record in each of these cases. Unfortunately, there is no information in any of them to support adequacy of the Compromise and Release (C&R). It appears that defense counsel attached a cover letter to the settlement alleging that “a serious issue” exists as to industrial injury but provided no explanation as to what issue exists. It also appears that the cover letter advised that all supporting documentation was uploaded, but we could find no such supporting documentation.

It is unclear how the WCJ was able to find the C&R adequate based on the record before us. The parties and the WCJ are encouraged to review our en banc opinion in *Gaines* for guidance in order to create a sufficient record to support adequacy.

Accordingly, as our Decision After Reconsideration, we rescind the February 17, 2026 OACR and return this matter to the trial level to conduct adequacy review of the proposed settlement and to create a record supporting the finding of adequacy. As we are rescinding the OACR on other grounds, we need not address defendant’s concern for holding attorney’s fees in trust as that issue is moot.

For the foregoing reasons,

IT IS ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the Joint Order Approving Compromise and Release issued on February 17, 2026, by the workers' compensation administrative law judge is **RESCINDED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ PAUL F. KELLY, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

July 30, 2026

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

**MARIA CASTANO SERRANO
TORKAN & FARZINPOUR
LAW OFFICES OF HEDY GOLSHANI**

EDL/mt

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