

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

MARK JOHNSON, *Applicant*

vs.

**INTERNATIONAL PAPER/WEYERHAEUSER COMPANY;
permissibly self-insured, administered by
SEDGWICK CLAIMS MANAGEMENT SERVICES, *Defendants***

**Adjudication Numbers: ADJ9298733, ADJ1877205
Long Beach District Office**

**OPINION AND ORDER
DENYING PETITION FOR
RECONSIDERATION**

Defendant seeks reconsideration of the Joint Findings and Orders (F&O) that was issued by the workers' compensation administrative law judge (WCJ) on January 6, 2026.

The WCJ found, in relevant part, that applicant met its burden to show that the defendant did not pay the Award timely and properly, no finding can be made regarding whether the defendant should be sanctioned until the record is developed, and defendant's Petition for Sanctions cannot be heard at the trial as sanctions against the applicant were not raised in the Pre-Trial Conference Statement and it was not filed until the day of the trial. The WCJ issued an order that the parties develop the record with regard to the sanctions allegations, and scheduled a status conference for further proceedings.

Defendant contends, in pertinent part, that the authority cited by the WCJ in the Joint Opinion on Decision does not support the F&O, defendant detrimentally relied on a final and unchallenged Order and Award by the WCJ that issued on December 10, 2024, and that public policy and due process require that the language in the WCJ's Order and Award is clear and unambiguous and should be enforced as written.

We have received an Answer from applicant

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

We have considered the allegations of the Petition, the Answer, and the contents of the WCJ’s Report. Based on our review of the record, and for the reasons stated in the WCJ’s Report, which we adopt and incorporate, we will deny reconsideration.

DISCUSSION

I.

Former Labor Code section 5909¹ 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 cases were transmitted to the Appeals Board on February 4, 2026, and 60 days from the date of transmission is Sunday, April 5, 2026. The next business day that is 60 days from the date of transmission is Monday, April 6, 2026. (See Cal. Code. Regs., tit. 8, § 10600(b).² This decision is issued by or on Monday, April 6, 2026, so that we have timely acted on the petition as required by section 5909(a).

¹ All section references are to the Labor Code, unless otherwise indicated.

² 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 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 February 4, 2026, and the cases were transmitted to the Appeals Board on February 4, 2026. Service of the Report and transmission of the cases 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 February 4, 2026.

II.

In addition to the analysis set forth in the WCJ's Report, we observe the following.

In *Camacho v. Target Corp.* (2018) 24 Cal.App.5th 291, 301-302 [83 Cal.Comp.Cases 1014], the Court of Appeal stated that:

We interpret a release or settlement agreement under the same rules of construction that apply to contracts generally. (Civ. Code, § 1635; *Hess v. Ford Motor Co.* (2002) 27 Cal.4th 516, 524 [117 Cal. Rptr. 2d 220, 41 P.3d 46].) We interpret a contract to give effect to the mutual intention of the parties at the time they formed the contract. (Civ. Code, § 1636; *Hess*, at p. 524.) We discern the parties' intention based on the written contract alone, if possible, but may also consider the circumstances under which the contract was made and its subject matter. (Civ. Code, §§ 1639, 1647; *Hess*, at p. 524.) We consider the contract as a whole, and interpret contested provisions in their context, not in isolation, with the aim of giving effect to all provisions, if doing so is reasonably possible. (Civ. Code, § 1641; *People v. Doolin* (2009) 45 Cal.4th 390, 413, fn. 17 [87 Cal. Rptr. 3d 209, 198 P.3d 11]; *City of Atascadero v. Merrill Lynch, Pierce, Fenner & Smith, Inc.* (1998) 68 Cal.App.4th 445, 473 [80 Cal. Rptr. 2d 329] ["Courts must interpret contractual language in a manner which gives force and effect to every provision, and not in a way [that] renders some clauses nugatory, inoperative or meaningless".])

(*Camacho, supra*, at p. 306.)

Here, we agree with the WCJ's analysis that the Compromise and Release (C&R) the parties filed on or about September 6, 2023 was for "\$22,500.00 New Money" without any deductions for permanent disability advances (PDAs). Paragraph 7 makes no provision for credit of any kind from the net proceeds of the settlement, save attorney fees. The space in paragraph 7 in which the parties may list any PDAs has been left blank. (Joint Exhibit A1, Compromise and Release, dated September 6, 2023, at p. 6.) As the parties agreed the remaining balance left to the applicant would be \$19,125.00, there was clearly a mutual intent to not include any deduction for PDAs. We see no other way to interpret the C&R.

We observe that by electing to proceed with a Petition without offering any persuasive arguments, defendant has wasted substantial time and judicial resources.

Accordingly, defendant's Petition is denied.

For the foregoing reasons,

IT IS ORDERED that defendant's Petition for Reconsideration of the WCJ's decision issued on January 6, 2026 is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

ANNE SCHMITZ, DEPUTY COMMISSIONER
CONCURRING NOT SIGNING



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

April 6, 2026

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

**MARK JOHNSON
OZUROVICH, SCHWARTZ & BROWN
MATIAN LAW GROUP**

JL/abs

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

REPORT AND RECOMMENDATION OF WORKERS' COMPENSATION JUDGE
ON PETITION FOR RECONSIDERATION
AND
NOTICE OF TRANSMITTAL

I.
INTRODUCTION

Date(s) of Injury: CT 10/8/1975 to 10/19/2013 in ADJ9298733
4/1/1994 in ADJ1877205

Occupation: Forklift Operator in ADJ9298733
Foreman in ADJ1877205

Body Parts: Lumbar Spine and Upper Extremities in ADJ9298733
Lumbar Spine in ADJ1877205

Identity of Petitioner: Defendant, INTERNATIONAL PAPER
COMPANY/WEERHAUSER

Timeliness: The Petition was timely filed on January 26, 2026.

Verification: The Petition was verified.

Petitioner's Contentions: The Petitioner seeks reconsideration upon the following grounds:

(1) That the WCJ acted in excess of his authority within the meaning of section 5903 (a); and

(2) That the factual findings do not support the conclusion that the Petitioner improperly paid the Award after following the Order as written¹

¹ See Petition for Reconsideration dated January 26, 2026 at page 4, lines 9-14.

II. FACTS

On or about August 16, 2006, the Applicant and Defendant filed a Stipulations with Request for Award in which the Parties agreed to settle the Permanent Disability for the April 1, 1994 date of injury to the low back for 22% Permanent Disability.²

On or about November 9, 2006, the Honorable John Payne issued an Award based upon the Stipulations with Request for Award.³

On or about February 16, 2014, Applicant's Counsel filed an Application alleging a Continuous Trauma Injury from October 8, 1975 to October 19, 2013 to the Applicant's Back and Upper Extremities.⁴

On or about February 10, 2016, the Parties filed a Stipulations with Request for Award wherein the Parties agreed to settle the Permanent Disability in ADJ9298733 for 19% and leave future medical care open.⁵

On or about February 10, 2016, the undersigned issued an Award based upon the Stipulations with Request for Award.⁶

On or about September 6, 2023, the Parties filed a Compromise & Release wherein they agreed to settle the issues of future medical treatment, out of pocket expenses, mileage, "P&I" and self-procured medical treatment for "\$22,500.00 **NEW MONEY**" with no deductions for Permanent Disability Advances (hereinafter referred to as "PDA").⁷

On or about September 11, 2023, the undersigned issued an Order Suspending Action.⁸

On or about October 19, 2023, the Parties filed an Amended Compromise & Release wherein they attempted to correct some of the deficiencies listed in the Order Suspending Action.⁹

Multiple hearings were held as the undersigned informed the Parties that Adequacy was at issue due to the valuation of the future medical care issue.¹⁰

² See EAMS ID Number 78527060 in ADJ1877205

³ See EAMS ID Number 78527070 in ADJ1877205

⁴ See EAMS ID Number 11646116 in ADJ9298733

⁵ See EAMS ID Number 59348356 in ADJ9298733

⁶ See EAMS ID Number 59348296 in ADJ9298733

⁷ See Joint Exhibit A1 (EAMS ID Number 48054814) in ADJ9298733 (emphasis added)

⁸ See Joint Exhibit B1 (EAMS ID Number 77136132) in ADJ9298733

⁹ See Joint Exhibit C1 (EAMS ID Number 48790211) in ADJ9298733

¹⁰ See Joint Exhibit D1 (EAMS ID number 77431078) in ADJ9298733

On or about March 12, 2024, the Applicant's Counsel informed the Court that the Applicant had passed away.¹¹

At an Informal Conference before the undersigned on March 25, 2024, the Petitioner asserted that the suspended settlement should not be approved and be set aside while the Applicant's Counsel maintained that neither Party could withdraw from the settlement and requested approval of the settlement.¹²

The matter eventually proceeded to trial on October 29, 2024.¹³

On or about December 10, 2024, the undersigned issued a Joint Findings of Fact and Orders in which it was found that the Compromise & Release should be approved and ordered that the Compromise & Release be approved with an Award made in favor of the Applicant against the Defendant in the amount of \$22,500.00 less credit to the Defendant for permanent disability advances made to date, **if any**, less sums set forth in the settlement agreement and less reasonable attorney's fees in the amount of \$3,375.00.¹⁴

On or about July 22, 2025, the Applicant's Counsel filed a Petition for Costs and Sanctions alleging that the Petitioner failed to pay per the terms of the Compromise & Release.¹⁵

The matter was then set for a Status Conference on the issue. When the Parties could not resolve, the Parties eventually set for trial.

On or about November 25, 2025, the matter proceeded to trial on the following issues:

- 1) Whether the Award was paid timely and properly;
- 2) Whether Defendant should be sanctioned per Applicant's Attorney's allegations in the Petition for Sanctions; and

¹¹ See Minutes of Hearing (EAMS ID Number 77730921) in ADJ9298733

¹² See Minutes of Hearing dated March 25, 2024 (EAMS ID Number 77779799) in ADJ9298733

¹³ At trial, the parties raised the following issues:

- a) In ADJ9298733, whether the Compromise & Release signed by all Parties should be approved and the issue of attorney's fees;
- b) In ADJ1877205, (1) whether the C&R was now void due to the OSA issued by the Court, (2) Attorney's Fees, (3) whether the C&R could be resurrected after denial by the Court, (4) Whether Defendant was entitled to seek Labor Code Section 5813 penalty fees in order to enforce a null and void agreement, (5) whether there was discretion by the Court to Approve the C&R, and (6) whether Sanctions should be imposed against Defendant per Applicant's Attorney's correspondence of 4/29/24. (See Minutes of Hearing and Summary of Evidence dated October 29, 2024 (EAMS ID Number 78567735) in ADJ9298733.

¹⁴ See Joint Findings of Fact and Orders dated December 10, 2024 (EAMS ID Number 78661039) in ADJ9298733 (emphasis added)

¹⁵ See Exhibit 11 (EAMS ID Number 57163476) in ADJ9298733

3) Whether Defendant's Petition for Costs and Sanctions could be heard at the trial.¹⁶

On or about January 6, 2026, the undersigned issued a Joint Findings and Order wherein the following was found:

- 1) Applicant met its burden to show that the Defendant did not pay the Award timely and properly;
- 2) No finding could be made at this juncture whether the Defendant should be sanctioned per the allegations in the Petition for Sanctions until the record was developed; and
- 3) The Defendant's Petition for Sanctions could not be heard at this trial as sanctions against the Applicant were not raised in the Pretrial Conference Statement and the Petition was not filed until the day of the trial.¹⁷

It is from this Joint Findings of Fact and Order and Opinion on Decision that Petitioner has filed its timely Petition for Reconsideration.

III.

DISCUSSION

The Petitioner seeks reconsideration of the Findings of Fact and Order wherein it was found that the Petitioner failed to issue payment timely and properly per the Compromise & Release. The Petitioner alleges that (1) the authority cited by the court did not support the decision, (2) the Petitioner detrimentally relied upon a Final and Unchallenged Order and (3) Public Policy and Due Process requires that WCAB Decisions and Orders be followed as written.¹⁸

WHETHER THE AWARD WAS PAID TIMELY AND PROPERLY

The primary issue was whether the Award was paid timely and properly. After review of the Compromise & Release and the Joint Findings of Fact and Orders of December 10, 2024, it was found that the Award was paid improperly and untimely. In reaching this decision, the undersigned relied upon a legal principle regarding contract interpretation referenced in the County of San Joaquin v. Workers' Comp. Appeals Bd.¹⁹ There, the Court of Appeal recognized that a "contract

¹⁶ See Minutes of Hearing dated November 25, 2025 (EAMS ID Number 79815685) in ADJ9298733

¹⁷ See Joint Findings of Fact and Orders dated January 6, 2026 (EAMS ID Number 79915168).

¹⁸ See Petition for Reconsideration dated January 26, 2026 at page 1, lines 21-23.

¹⁹ 117 Cal. App. 4th 1180

must be interpreted so as to give effect to the mutual intention of the parties at the time of contracting, so far as the same is ascertainable and lawful”.²⁰ In the Compromise & Release, the Parties stipulated in paragraph 6 that \$16,215.00 was paid to the Applicant for Permanent Disability Indemnity.²¹ In paragraph 7 of the Compromise & Release, the Parties indicated that they were settling the matter for “**22,500.00 NEW MONEY**”.²² Furthermore, the Parties did not indicate in paragraph 7 that the Petitioner would be asserting credit for any PDAS²³ as this area was left blank and the Parties had agreed that the Applicant was left a balance of **\$19,125.00**.²⁴ According to the Joint Findings of Fact and Orders dated December 10, 2024, it was ordered that an Award was made ‘in favor of the Applicant against the Defendant in the amount of \$22,500.00 less credit to Defendant for permanent disability advances made to date, *if any*, less sums set forth in the settlement agreement, and less reasonable attorney fees in the amount of \$3,375.00...’²⁵ As such, using the aforementioned legal principle regarding contract interpretation as a guide, the undersigned found that the Award should have been paid as \$3,375.00 to Applicant’s Counsel and \$19,125.00 to the Applicant per the terms of the Compromise & Release as there were no sums set forth in paragraph 7 for PDAS. Moreover, further reinforcing the intent of the Parties not to include any PDAS was paragraph 9. In paragraph 9, the Parties clearly articulated that they were initialing, and thereby settling, only “future medical treatment, all out of pocket expenses, mileage, ‘P&I’ and self-procured medical treatment”.²⁶ There was clearly no intention to resolve “permanent disability” and there was no language reflecting an agreement that there would be credit for any PDAS. Since the evidence offered by the Parties demonstrated that \$19,125.00 was not paid to the Applicant as a check for only \$2,910.00 was issued to the Applicant²⁷, it was found that the Petitioner failed to pay the Award timely and properly.

²⁰ County of San Joaquin v. Workers’ Compensation Appeals Bd. (Sepulveda) (2004) 117 Cal. App. 4th 1180, 1184.

²¹ See Joint Exhibit C1 at page 5.

²² See Joint Exhibit C1 at page 6.

²³ It should be noted that the DWC website defines a permanent disability advance (PDA) as a voluntary lump sum payment on permanent disability you are due in the future. (see the DWC Glossary OF Workers’ Compensation terms for Injured Workers found at <https://www.dir.ca.gov/dwc/wcglossary.htm>). At the time of this settlement, there was no permanent disability due in the future to the Applicant as the \$16,215.00 paid in permanent disability to the Applicant represented the full amount of 19% permanent disability as a result of the continuous trauma in ADJ9298733. Said amount was paid pursuant to an Award that issued from the filing of a Stipulation with Request for Award in 2016 and did not represent any permanent disability owed to the Applicant in the future.

²⁴ See Joint Exhibit C1 at page 6

²⁵ See Joint Findings of Fact and Orders dated December 10, 2024 (emphasis added).

²⁶ See Joint Exhibit C1 at page 7

²⁷ See Exhibits 17 and F and Stipulation 3 in the Minutes of Hearing dated November 25, 2025 at page 2, lines 12-13.

The Petitioner contends that the undersigned's analysis essentially disregards or reinterprets the Joint Findings of Fact and Orders of December 10, 2024; however, the Petitioner's contention is inaccurate. Had the Petitioner followed the plain language of the Joint Findings of Fact and Order, which allowed credit for permanent disability advances made to date, *if any*, the Petitioner would not have deducted any amounts for PDAS because the Parties did not contemplate PDAS in the settlement as referenced by its absence from paragraph 7 and the failure to initial the permanent disability box in paragraph 9. Therefore, the Petitioner's belief that the Joint Findings of Fact and Order of December 10, 2024 mandates one result while the Compromise & Release reflects a different negotiated outcome is flawed as the Order Approving the Compromise & Release reflects the mutual intention of the Parties set forth in the Compromise & Release.

PETITIONER'S RELIANCE ON A FINAL AND UNCHALLENGED ORDER

The Petitioner next asserts that it relied on a clear and final WCAB Order and should not be penalized for complying with the Findings and Award as written. While it is noted that the issue of sanctions was raised at trial, the issue of penalties was not. Therefore, it would appear that the Petitioner is attempting to defend its actions from penalties and sanctions; however, said defense is not appropriate for this Petition for Reconsideration as the issue of penalties was not raised and the issue of sanctions was ordered to be developed.

PUBLIC POLICY AND DUE PROCESS REQUIRE THAT WCAB DECISIONS AND ORDERS BE FOLLOWED AS WRITTEN

Finally, the Petitioner asserts that a fundamental principle of Public Policy and Due Process requires that WCAB orders be enforced as written and not later reinterpreted based on subjective assessments of what a Party may have intended²⁸. The undersigned agrees that WCAB Orders should be enforced as written. However, in this matter, the Joint Findings of Fact and Orders was not complied with as written. The Joint Findings of Fact and Orders of December 10, 2024 specifically indicated that Award was made in favor of the Applicant against the above named Defendant in the amount of \$22,500.00, less credit to Defendant for permanent disability advances made to date, *if any*, less sums set forth in the settlement agreement, and less reasonable attorney fees in the amount of \$3,375.00. There were no PDAS made in this matter. In fact, the amount,

²⁸ Petition for Reconsideration dated January 26, 2026 at page 7, lines 3-6.

\$16,215.00, which the Petitioner deducted as a PDA was actually the Permanent Disability Indemnity which the Petitioner agreed to pay pursuant to the underlying Stipulation with Request for Award of February 10, 2016. There was no evidence offered of any PDA being paid to the Applicant subsequent to the February 10, 2016 Award. Moreover, based upon the plain language of the Compromise & Release, the Parties never intended for there to be deductions for any PDA as (1) the Parties did not include any deductions for PDAS in Paragraph 7 of the Settlement²⁹, (2) the issue of Permanent Disability was not settled via Paragraph 9³⁰, and (3) the Compromise & Release, based on in its terms, was extremely explicit as the Parties agreed the settlement was for “22,500.00 **NEW MONEY**”³¹. As such, it is evident that the clear and explicit language of the Compromise & Release did not address the existence of or contemplate the deduction from the settlement proceeds of any PDA made prior the signing of the agreement. As such, to interpret the Joint Findings of Facts and Orders otherwise would run afoul of the mutual intent of the Parties. Therefore, it is clear that the Joint Findings of Facts and Orders was not complied with as written.

IV.

RECOMMENDATION

It is respectfully requested that the Petition for Reconsideration dated January 26, 2026 be denied.

V.

NOTICE OF TRANSMITTAL

NOTICE IS HEREBY GIVEN THAT this matter is transmitted to the Recon Unit on February 4, 2026.

DATE: February 4, 2026

Dewayne P. Marshall
WORKERS' COMPENSATION JUDGE

²⁹ Exhibit C1 at page 6

³⁰ See Joint Exhibit C1 at page 7

³¹ See Exhibit C1 at page 6