

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

MONICA SUN BASS, *Applicant*

vs.

**K&N ENGINEERING, INCORPORATED;
GALLAGHER BASSETT SERVICES, INCORPORATED for ARCH INDEMNITY
INSURANCE COMPANY, *Defendants***

**Adjudication Number: ADJ17608786
Anaheim District Office**

**OPINION AND ORDER
DENYING PETITION
FOR RECONSIDERATION**

Defendant seeks reconsideration, or in the alternative removal, of the Findings and Order; Order Re: Admission of Documentary Evidence (F&O) of April 27, 2026, wherein the workers' compensation judge (WCJ), in relevant part, denied the petition for consolidation of April 24, 2024, and the amended position for consolidation of October 29, 2024.

Defendant contends that the cases involve the same applicant's attorneys and that denying consolidation will cause significant prejudice and irreparable harm by resulting in numerous separate hearings and trials on the same factual, procedural, discovery, and medical-legal issues that would result in a fragmented evidentiary record and inconsistent opinions by various WCJs.

We have received an Answer from applicant. The WCJ prepared a Report and Recommendation on Petition for Reconsideration (Report), recommending that the Petition be denied.

We have considered the Petition for Reconsideration/ Removal, the Answer, and the contents of the Report, and we have reviewed the record in this matter. Based on our review of the record, and for the reasons stated in the WCJ's Report, we will deny the Petition as one seeking reconsideration.

I.

Former Labor Code¹ 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 June 3, 2026 and 60 days from the date of transmission is Sunday, August 2, 2026. The next business day that is 60 days from the date of transmission is Monday, August 3, 2026. (See Cal. Code Regs., tit. 8, § 10600(b).)² This decision is issued by or on Monday, August 3, 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

¹ All further statutory references are to the Labor Code unless otherwise noted.

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.

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 June 3, 2026, and the case was transmitted to the Appeals Board on June 3, 2026. 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 June 3, 2026.

II.

If a decision includes resolution of a “threshold” issue, then it is a “final” decision, whether or not all issues are resolved or there is an ultimate decision on the right to benefits. (*Aldi v. Carr, McClellan, Ingersoll, Thompson & Horn* (2006) 71 Cal.Comp.Cases 783, 784, fn. 2 (Appeals Board en banc).) Threshold issues include, but are not limited to, the following: injury arising out of and in the course of employment, jurisdiction, the existence of an employment relationship and statute of limitations issues. (See *Capital Builders Hardware, Inc. v. Workers' Comp. Appeals Bd. (Gaona)* (2016) 5 Cal.App.5th 658, 662 [81 Cal.Comp.Cases 1122].) Failure to timely petition for reconsideration of a final decision bars later challenge to the propriety of the decision before the WCAB or court of appeal. (See Lab. Code, § 5904.) Alternatively, non-final decisions may later be challenged by a petition for reconsideration once a final decision issues.

A decision issued by the Appeals Board may address a hybrid of both threshold and interlocutory issues. If a party challenges a hybrid decision, the petition seeking relief is treated as a petition for reconsideration because the decision resolves a threshold issue. However, if the petitioner challenging a hybrid decision only disputes the WCJ's determination regarding interlocutory issues, then the Appeals Board will evaluate the issues raised by the petition under the removal standard applicable to non-final decisions.

Here, the WCJ's decision includes a finding regarding a threshold issue, the existence of an employment relationship. Accordingly, the WCJ's decision is a final order subject to reconsideration rather than removal.

Although the decision contains a finding that is final, the petitioner is only challenging an interlocutory finding/order in the decision, denial of consolidation. Therefore, we will apply the removal standard to our review. (See *Gaona, supra.*)

Removal is an extraordinary remedy rarely exercised by the Appeals Board. (*Cortez v. Workers' Comp. Appeals Bd.* (2006) 136 Cal.App.4th 596, 599, fn. 5 [71 Cal.Comp.Cases 155]; *Kleemann v. Workers' Comp. Appeals Bd.* (2005) 127 Cal.App.4th 274, 280, fn. 2 [70 Cal.Comp.Cases 133].) The Appeals Board will grant removal only if the petitioner shows that significant prejudice or irreparable harm will result if removal is not granted. (Cal. Code Regs., tit. 8, § 10955(a); see also *Cortez, supra*; *Kleemann, supra.*) Also, the petitioner must demonstrate that reconsideration will not be an adequate remedy if a final decision adverse to the petitioner ultimately issues. (Cal. Code Regs., tit. 8, § 10955(a).) Here, for the reasons stated in the WCJ's Report, we are not persuaded that significant prejudice or irreparable harm will result if removal is denied and/or that reconsideration will not be an adequate remedy.

Therefore, we will deny the Petition as one seeking reconsideration.

With respect to service on this matter, since defendant's motion involves 18 different cases, there is overlap in representation. While we agree with the WCJ that the matters should not be consolidated, in order to avoid duplication of service, we will electronically serve a single copy of our decision on the representatives listed below who appeared at the hearing on March 12, 2026. By this decision, defendant's attorneys Sion & Associates are designated to serve any defendants or lien claimants that did not appear at the hearing and that we have not served.

SION & ASSOCIATES (attorneys for defendants Gallagher Bassett Services, Incorporated, for Arch Indemnity Insurance Company);

PEARLMAN, BROWN & WAX, LLP (attorneys for defendants Gallagher Bassett Services, Incorporated, for Arch Indemnity Insurance Company);

JCR LAW GROUP, INC. (attorneys for applicants Monica Sun Bass, Sonia Barahona, Maria Lucatero, Jose Luis Zavala Torres, Sonia Rafaela Perez, and Damian Perez Sierra);

KJT LAW GROUP (attorneys for applicants Alma Miranda, Blanca Mendoza, Esmeralda Gudino, Fernando Sanchez, Maria Avalos, and Marilu Meza);

LAW OFFICES OF VICKEN H. HAGOPIAN (attorneys for applicants Norma Yanez and Raymond Martinez);

LAW OFFICES OF G. JOHN JANSEN, PLC (attorneys for applicants Blanca Estela Cortez, Altagracia Sanchez, and Alicia Calderilla.

The injured workers will be served with this decision by way of regular mail.

For the foregoing reasons,

IT IS ORDERED that the Petition for Reconsideration/Removal is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

/s/ PAUL F. KELLY, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

August 3, 2026

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

JMR/pm

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

SERVICE LIST

**MONICA SUN BASS
ALICIA CALDERILLA
ALMA MIRANDA
ALTAGRACIA SANCHEZ
BLANCA CORTEZ
BLANCA MENDOZA
CLAUDIA MELISSA VERDUGO
DAMIAN PEREZ SIERRA
ERICKA RIVERA
ESMERALDA GUDINO
EVELYN RIVERA
FERNANDO SANCHEZ
LUIS JOSE ZAVALA TORRES
MARIA AVALOS
MARIA LUCATERO
MARILU MEZA
NORMA YANEZ
SONIA BARAHONA
SONIA RAFAELA PEREZ
RAYMOND MARTINEZ
HAROLD COLLINS
JCR LAW GROUP
K&N ENGINEERING, INC.
KJT LAW GROUP
LAW OFFICES OF G. JOHN JANSEN & ASSOCIATES
PEARLMAN BROWN & WAX
SION & ASSOCIATES
LAW OFFICES OF VICKEN HAGOPIAN**