

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

REBECCA WEAVER, *Applicant*

vs.

**FIRST FOURSQUARE CHURCH OF VAN NUYS; CALIFORNIA INSURANCE
GUARANTEE ASSOCIATION for FREMONT INSURANCE COMPANY, *Defendants***

**Adjudication Number: ADJ4661348 (VNO 0347369)
Marina del Rey District Office**

**OPINION AND ORDER
GRANTING PETITION FOR RECONSIDERATION
AND DECISION AFTER RECONSIDERATION**

Defendant California Insurance Guarantee Association (CIGA) seeks reconsideration of the December 5, 2025 Findings of Fact, wherein the workers' compensation administrative law judge (WCJ) found that the Workers' Compensation Appeals Board (WCAB) does not have jurisdiction over defendant CIGA's petition for sanctions and costs filed on May 29, 2024.

Defendant contends that the actions of lien claimant David Silver, M.D., by and through his representative of record, Legal Services Bureau, appearing through Dan Escamilla (lien claimant), after May 23, 2023 gave rise to the May 29, 2024 petition for sanctions and costs. Defendant contends that the WCAB maintains jurisdiction to adjudicate the petition for sanctions and costs.

We received an answer from lien claimant, who designated his pleading as a special appearance, contending that lien claimant ceased to be a party in this matter when his lien was dismissed by operation of law on July 3, 2017. Lien claimant then argues that the WCAB ceased to have jurisdiction on lien claimant on July 3, 2017 and lien claimant is no longer a party to this matter from which sanctions can be imposed.

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, the Answer, and the contents of the Report, and we have reviewed the record in this matter, including, but not limited to, the

letter/removal from CIGA dated December 9, 2025. For the reasons discussed below, we grant reconsideration and rescind the December 5, 2025 Findings of Fact.

FACTS

We repeat the facts as stated in our November 25, 2025 Opinion and Order Denying Petition for Removal.

As the WCJ stated in his Report:

This case involves a specific injury of December 2, 1992, and was resolved for a Compromise and Release on December 21, 2019 for \$358,085. There were two liens filed for Dr. Silver. The more recently filed lien was settled by an order from WCJ Jackson on 02-21-2019 according to EAMS ID 69515899; this order of 02-21-2019 stated the following on the face of the order: “Dr. Silver has 1 other lien pending—11/7/97 – 11/12/02.” This “other” lien is the older lien of Dr. Silver and is dated 03-29-2005 and was filed in 2005. See EAMS ID 27534395, and it was for dates of service of 11-07-1997 through 11-12-2002, as indicated in the 2005 lien document and as further indicated in the order of WCJ Jackson of 02-21-2019. This older lien is the lien which has seen so much litigation in the last five years or so. No LC4903.05 (c) declaration was ever filed for this older lien of Dr. Silver and it was, or should have been, dismissed by operation of law on July 3, 2017 at 5:01 p.m. And yet, like a relentless weed it has had a life of its own.

This older lien of Doctor David Silver was initially taken to trial before WCJ Walker, who found that lien claimant Doctor David Silver was not entitled to payment in excess of the fee schedule. Please see the Decision of WCJ Walker dated January 16, 2020. The lien representative for Doctor David Silver filed a Petition for Reconsideration which was denied. Several years later, the lien representative for Doctor David Silver, Dan Escamilla, filed a somewhat unique pleading which he called a Petition to Reopen.

Mr. Escamilla also filed a Declaration of Readiness to Proceed on March 23, 2023. The lien representative for Doctor David Silver argued that the order of Judge Walker was not a final order. Judge Walker had retired, so the case was set before WCJ Spoeri, who took this matter to trial. In the trial by WCJ Spoeri in 2023, Trial Stipulation Number 4 indicated, “Dr. David Silver filed a lien dated 03-29-2005 on or about 03-29-2005 ...” In the same trial, by WCJ Spoeri, Trial Stipulation Number 17 indicated that “[t]he EAMS file of documents does not contain an LC4903.05 Declaration from lien claimant Dr. David Silver” WCJ Spoeri found that there was no evidence of a filing before 07-03-2017 of a declaration comporting with Labor Code section 4903.05; this meant that the pre-2017 lien of Doctor David Silver had been dismissed by operation of law, and therefore WCJ Spoeri had no jurisdiction over this lien because Dr.

Silver/Dan Escamilla had failed to file a declaration comporting with LC 4903.05 before the 07-03-2017 deadline. See EAMS 77376432.

The lien claimant for Doctor David Silver filed a Petition for Reconsideration of WCJ Spoeri's Findings of Fact on November 20, 2023 (EAMS 49451879). [Notably, contrary to lien claimant's current position, lien claimant argued in this petition that the WCAB has continuing jurisdiction and did not lose jurisdiction based on lien claimant's failure to file a Labor Code section 4903.05 declaration.] The Commissioners indicated that they agreed with Judge Spoeri that Judge Walker's January 16, 2020 Findings of Fact were a final judgment . . . (EAMS 77616164). []

The Petition for Reconsideration was denied on February 6, 2024 and the lien claimant appears to be arguing that on this date, the WCAB lost jurisdiction over anything having to do with the lien of Doctor David Silver, including the WCAB losing jurisdiction over any issues concerning penalties, sanctions and costs against Dr. Silver and/or his representative. Lien claimant Doctor David Silver and his representative did not cite any case authority for this proposition that the WCAB lost jurisdiction over any collateral issues concerning this lien, such as sanctions, penalties and costs.

On 5/29/2024 the defendant filed a petition for sanctions and costs, reflected by EAMS number 52146024. At the same time the defendant filed a request with Chief Judge Levy that Judge Spoeri recuse himself because he was a percipient witness to some of the events alleged in the petition for sanctions against Doctor David Silver and/or Dan Escamilla and that the defendant wanted to call Judge Spoeri as a witness. This request was never granted. Please see EAMS 52146025. No Petition For Disqualification has ever been filed in this case. A DOR was filed on 6/27/2004 reflected by EAMS number 52628349.

On September 17, 2024, Dan Escamilla sent correspondence reflected by EAMS number 53916973. In this correspondence of September 17, 2024, Mr. Escamilla stated in a letter directed to Judge Robert Spoeri, with a carbon copy to the defense attorney, that Mr. Escamilla was upset that the defendant was accusing him of a pattern of conduct that constitutes vexatious litigation. Mr. Escamilla felt that the allegations by the defense attorney were "frivolous." Mr. Escamilla also stated "Your Honor has already declined to find jurisdiction to decide this case. And without jurisdiction over the parties, the court does not have power to determine the case. See *Airlines Reporting Corp v. Renda* 177 Cal.App. 4th 14 at 20 (2009)." Mr. Escamilla also added that Doctor Silver "is no longer a party to this case and we are no longer a party representative in this case. We consider this matter fully and finally resolved as of February 6, 2024 when the Board denied [the Petition] of [For] Reconsideration (EAMS 77616164). We object to the May 29, 2024 petition by defendant (EAMS 52146024) on jurisdictional grounds and do not intend to make any further appearances in this case. In any event, the next hearing is set as an MSC on

September 14, 2024, and lien claimants are not [] required to appear at these hearings.” (Emphasis added).

Mr. Escamilla missed three Mandatory Settlement Conferences and one trial date in late 2024 and early 2025. WCJ Spoeri outlined this portion of the history of the case when he sent a notice of intention to go forward with trial on April 2, 2025 (EAMS 79025028).

This case came up for trial on May 8, 2025. Mr. Escamilla and Legal Service Bureau had notice of this trial. They also had notice of all prior hearings in this case which Legal Service Bureau and/or Dan Escamilla failed to attend. WCJ Spoeri reviewed the file shortly before May 8, 2025, so that he could be prepared for what he knew was going to be a challenging trial. Sometime on the trial date of May 8th, 2025 a written request for a continuance reached the EAMS computer filing system for the WCAB; WCJ Spoeri did not look at the EAMS computer filing system on the morning of trial on May 8, 2025, because he had already prepared for the trial and was busy with appearing on a zoom-like computer platform known as Court Call (which the WCAB uses for virtual appearances) for what was scheduled to be a virtual trial in this case. The virtual appearance arguably would have made it easy for Mr. Escamilla to appear. Mr. Escamilla never asked the defense attorney for a continuance.

The defense attorney and his witness were on the Court Call virtual trial platform with WCJ Spoeri starting at 8:30. Judge Spoeri even got on shortly before 8:30. The defense attorney had no knowledge that Mister Escamilla was asking for a continuance. WCJ Spoeri asked the defense attorney to call up Dan Escamilla and to ask him where he was and if he would please appear on Court Call. The defense attorney, Mr. Jeffrey Sardell called Mr. Escamilla’s office at WCJ Spoeri’s request and left a message and had no response. This is set out in the minutes of hearing document dated 5/8/2025.

WCJ Spoeri inconvenienced the defense attorney and his witness to wait till the afternoon to give Mr. Escamilla additional time. The parties did not go on the record until 2:45 PM. For almost the entire time between 8:30 AM and about 3:45 PM on 5/8/2025, with the exception of a lunch break, WCJ Spoeri was on the court call line for virtual trials. Mr. Escamilla never appeared. No one from his office appeared, no one made a phone call to the WCAB-MDR, and no one from his office called by telephone into the Court Call platform. (Report, pp. 3-6.) (Opinion and Order Denying Petition for Removal dated November 25, 2025, pp. 2-4.)

On June 3, 2025, lien claimant filed a petition for removal of the May 8, 2025 trial proceedings contending that the WCAB lacked jurisdiction. (Petition for Removal dated June 3, 2025.) While this petition for removal was pending at the Appeals Board, the parties continued trial proceedings on November 20, 2025, with an appearance from lien claimant’s representative,

on the sole issue of whether the WCAB has jurisdiction over defendant’s May 29, 2024 petition for sanctions. (Minutes of Hearing and Summary of Evidence (MOHSOE) dated November 20, 2025.) The parties were given the opportunity to submit post-trial briefs and the matter was to stand submitted on December 4, 2025. (MOESOE dated November 20, 2025.)

On November 25, 2025, we issued our Opinion and Order Denying Petition for Removal, in which we concluded that “the WCAB still has jurisdiction over the issues of penalties, sanctions, and costs that have been filed since the May 23, 2023 petition to reopen.” (Opinion and Order Denying Petition for Removal dated November 25, 2025, p. 6.)

On December 5, 2025, the WCJ issued the instant Findings of Fact finding that the WCAB “does not have jurisdiction over the petition of the defendant filed on May 29, 2024.” (Findings of Fact dated December 5, 2025.) Defendant filed the instant petition.

DISCUSSION

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. (§ 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

¹ All subsequent statutory references are to the Labor Code unless otherwise indicated.

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 December 22, 2025, and 60 days from the date of transmission is February 20, 2026. This decision is issued by or on February 20, 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 workers’ compensation administrative law judge, the Report was served on December 22, 2025, and the case was transmitted to the Appeals Board on December 22, 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 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 December 22, 2025.

II.

The WCJ relied on *Cornejo v. Sears Holdings Corp.* (ADJ7580462, ADJ7580463, ADJ8813744, March 11, 2025) [2025 Cal. Wrk. Comp. P.D. LEXIS 65] for his finding that the WCAB does not have jurisdiction over defendant’s petition for sanctions and costs. In *Cornejo*, a different Appeals Board panel concluded that a lien claimant’s lien was dismissed by operation of law on July 3, 2017 and any trial proceedings thereafter should have been immediately terminated, including proceedings on the issue of sanctions against lien claimant. (*Cornejo* at pp. 6-7.)

The facts in *Cornejo* and this case are different. As the WCJ noted, this case has been litigated for 33 years with a date of injury dated in 1992. (Report dated December 22, 2025, p. 2.) Had anyone raised the issue of lien claimant’s failure to file a declaration pursuant to section 4903.05, this lien should never have been litigated. Yet, it’s been litigated for over 20 years, since

it was filed in 2005. As mentioned in our February 6, 2024 Opinion and Order Denying Petition for Reconsideration, WCJ Walker's January 16, 2020 Findings of Fact was a final judgment on this lien issue that should have ended the matter on March 17, 2020, when we denied reconsideration and no further appeals were made. In her January 16, 2020 Findings of Fact, WCJ Walker found that the issues of penalty and / or interest are moot and that all petition for costs and sanctions for denying conduct are denied. (Findings of Fact dated January 16, 2020, Findings nos. 6 and 7, p. 2.)

Yet most peculiarly, lien claimant filed a petition to reopen on May 23, 2023, subjecting himself to proceedings before the WCAB. This petition to reopen resulted in trial proceedings on November 6, 2023, which was the first time that the issue of section 4903.05 was mentioned as a bar to lien claimant's lien. (MOHSOE dated November 6, 2023.) In his November 20, 2023 Findings of Fact, WCJ Spoeri found that lien claimant did not file a section 4903.05 declaration and that he does not have jurisdiction to hear the matter. (Findings of Fact dated November 20, 2023, Findings nos. 1 and 2, p. 4.) Yet the parties continued to litigate, with lien claimant arguing then that section 4903.05 does not apply to him and that the WCAB has continuing jurisdiction to oversee his lien. (Petition for Reconsideration dated December 8, 2023.) On February 6, 2024, we denied reconsideration and agreed that WCJ Walker's January 16, 2020 Findings of Fact was a final judgment on the merits, denying re-litigation of the lien. It was not until our February 6, 2024 Opinion that lien claimant flipped his position to now argue that the WCAB does not have jurisdiction pursuant to section 4903.05. This is after the lien has been litigated for almost two decades.

While we understand that subject matter jurisdiction cannot be waived, the issue here is not lien claimant's lien, which was either dismissed by operation of law or adjudicated by WCJ Walker's January 16, 2020 Findings of Fact. The issues here are sanctions and costs, which were bifurcated, with jurisdiction reserved, on November 26, 2023. (MOHSOE dated November 23, 2023, Stipulation no. 24, p. 4:6-7.) As we said before, although ordinarily, a dismissal of a lien ends all proceedings with lien claimant, given the unique and extensive procedural history of litigation for almost two decades, as well as lien claimant's actions in repeatedly submitting himself to workers' compensation proceedings, we remain steadfast in our conclusion that the WCAB maintains jurisdiction to adjudicate the issues of penalties, sanctions, and costs after lien claimant began proceedings on May 23, 2023 even though the issue of his lien and the issue of

sanctions / costs were already adjudicated by then. (Opinion and Order Denying Petition for Removal dated November 25, 2025.) To conclude otherwise, would be to reward continuous litigation after adjudication and final judgment on the merits.

Accordingly, we grant reconsideration and rescind the December 5, 2025 Findings of Fact and return this matter to the trial level for further proceedings on the petition for sanctions and costs filed on May 29, 2024.

For the foregoing reasons,

IT IS ORDERED that defendant California Insurance Guarantee Association's Petition for Reconsideration of the December 5, 2025 Findings of Fact is **GRANTED**.

IT IS FURTHER ORDERED, as the Decision After Reconsideration of the Workers' Compensation Appeals Board, that the December 5, 2025 Findings of Fact is **RESCINDED** and the matter is **RETURNED** to the trial level for further proceedings.

WORKERS' COMPENSATION APPEALS BOARD

/s/ CRAIG L. SNELLINGS, COMMISSIONER

I CONCUR,

/s/ JOSEPH V. CAPURRO, COMMISSIONER

ANNE SCHMITZ, DEPUTY COMMISSIONER
CONCURRING NOT SIGNING



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

FEBRUARY 20, 2026

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

DAVID SILVER, M.D.
LEGAL SERVICE BUREAU / DAN ESCAMILLA
FLOYD SKEREN MANUKIAN LANGEVIN, LLP

LSM/ara

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