

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

RICHARD CAMACHO GUZMAN, *Applicant*

vs.

**ESSENTIAL CS CORP.;
STATE COMPENSATION INSURANCE FUND, *Defendants***

**Adjudication Number: ADJ15622195
Van Nuys District Office**

**OPINION AND ORDER
GRANTING PETITION FOR
RECONSIDERATION**

Cost petitioner seeks reconsideration of the Findings and Order (F&O), issued by the workers' compensation administrative law judge (WCJ) on January 5, 2026¹, wherein the WCJ found in pertinent part, that: 1) applicant claims to have sustained injury while allegedly employed as a driver by defendant on June 11, 2021; 2) cost petitioner NAP Interpreting interpreted a Compromise and Release for applicant not in connection with a board hearing, arbitration or deposition; 2) Cost petitioner is not entitled to greater of market rate or Los Angeles County Superior Court rate pursuant to 8 CCR §9795.3(b)(1); 3) cost petitioner's market rate is not subject to collateral estoppel between the parties; 4) cost petitioner is entitled to the minimum of two hours at the rate of \$11.25 a quarter hour for a total of \$90.00 pursuant to 8 CCR §9795.3(b)(2); 5) defendant paid cost petitioner \$175.00; and 6) costs and fees are not awarded as defendant timely paid cost petitioner an amount exceeding the amount due pursuant to number 5 and 6. Based on these findings, the WCJ ordered that cost petitioner take nothing further by way of it Cost Petition.

Cost petitioner contends that settlement translation falls under Administrative Director (AD) Rule 9795.3(b)(1) and that the parties stipulated that settlement translation is a valid Labor Code 5811² charge which cost petitioner asserts should be reviewed under AD Rule 9597.3(b)(1).

We received an Answer from defendant.

¹ On January 5, 2026, the WCJ issued an Amended F&O to correct the case number.

² Opinion on Decision, 1/5/2026, p. 1.

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

We have considered the allegations in the Petition, the Answer, and the contents of the Report. Based upon our preliminary review of the record, we will grant cost petitioner's Petition for Reconsideration. Our order granting the Petition for Reconsideration is not a final order, and we will order that a final decision after reconsideration is deferred pending further review of the merits of the Petition for Reconsideration and further consideration of the entire record in light of the applicable statutory and decisional law. Once a final decision after reconsideration is issued by the Appeals Board, any aggrieved person may timely seek a writ of review pursuant to Labor Code section 5950 et seq.

BACKGROUND

We will briefly review the relevant facts.

Applicant claimed to have sustained industrial injury to the abdomen, chest, and nervous system, while allegedly employed by defendant on June 11, 2021 as a driver.

On May 30, 2023, certified interpreter Neftali A. Patino (translator identification number 30841) provided Spanish translation services for applicant at the reading and signing of the Compromise and Release (C&R). The C&R was signed by both applicant and interpreter Mr. Patino on May 30, 2023, in Whitter, California (C&R, May 30, 2023, p. 8, Exhibit 3, 5/30/2023.)

On July 26, 2023, cost petitioner served defendant with an interpreting service invoice #422 for "LEGAL TRANSLATION OF Reading/Translation of Compromise & Release, Waiver, State Fund Addendum D, and Workers Comp Addendum/Between Attorney and Applicant/Haf [sic] Day." A Proof of Service was attached to the invoice. (Exhibit 1, 7/26/2023.)

Defendant issued individual payment reports for Invoice #422 to cost petitioner, one report is dated June 29, 2023, and states: LEGAL INT-HALF DAY charges \$375.00 amount reduced \$200 and allowances \$175.00. The second report is dated August 7, 2023, and states: LEGAL INT -HALF DAY charges \$375.00 amount reduced \$200 allowances \$175.00. This report reflects an adjustment of -375.00, amount reduced -200.00 and allowance -175.00 and the adjustment total reflects 0.00. For both the June 29, 2023 and August 7, 2023 Reports the following explanation is provided:

EOR Reduction Code Explanation: Per CA Code of Regulations, Title 8
9795.3(b)(1):

For Appeals board hearings, arbitration and depositions, the interpreter fees must be billed and paid at the greater of:

1. The rate for one half day or one full day as defined in the Superior Court fee schedule for interpreters in the county where the service was provided; or
2. The market rate.

For dates of service on or after July 1, 2021, we have paid you according to Superior Court rate of \$175.00 half day or \$350 full day.

(Exhibit B, 6/29/2023 and 8/7/2023.)

On July 26, 2023, cost petitioner issued a “Demand” to defendant,

“Please find attached our most recent **Invoice #422** with a balance of **\$175.00**, which has been **outstanding since 05/30/2023**. . . . **OUR DEMAND IS: \$175.00 as full and final payment for the dates of service included in our itemized invoice referenced above as of today, July 26, 2023.**

Please note that if we do not receive payment or response within 60 days from today, we will file a Petition for costs as per Labor Code 5811.

We hereby want to establish that: This service is a legal interpretation and **should be paid under Labor Code Section 5811(b)(2) and Title 8 California Code of Regulations-9795.3**. Please see attached Labor Code Information Sheet and our Proof of Market Rate to establish our market rate for the billed services. . . .”

(Exhibit 2, 7/26/2023.)

On August 3, 2023, WCJ Bushin issued an Order Approving the Compromise and Release (OACR).

On September 18, 2023, cost petitioner filed a Petition for Labor Code³ §5811 Costs and attorney’s fees, along with a Notice To Produce Documents and a Declaration of Readiness to Proceed (DOR) to a status conference. (DOR, 0/18/2023, p 7.)

On January 12, 2024, cost petitioner filed a Motion To Compel Production of Relevant Documents and the WCJ issued an Order Compelling Production of Relevant Discovery on January 22, 2024. Cost petitioner served this Order on January 22, 2024.

On January 31, 2024, defendant Objected to the Order issued on January 22, 2024.

On September 24, 2024, cost petition filed a DOR requesting the Court’s assistance with defendant’s failure to comply with the Discovery Order and requested a trial on discovery.

On March 26, 2025, the matter proceeded to trial before WCJ Devine.

³ All further statutory references are to the Labor Code, unless otherwise noted.

On June 17, 2025 cost petitioner’s attorney filed a letter written to the Presiding Workers’ Compensation Judge dated January 28, 2024⁴ requesting a trial transcript after receiving the Minutes of Hearing/Summary of Evidence from the March 26, 2025 Trial because, “The Minutes of Hearing reflect that Petitioner Exhibits 7, 8, and 9 have been Marked For Identification, but do not list any objections to the Exhibits.”

On June 24, 2025 the Presiding Workers’ Compensation Judge issued an Order Vacating Submission and Notice of Status Conference. The matter was set for a Conference before WCPJ Velzy. At the Status Conference, the matter was reassigned to WCJ Shuben and set for Trial on October 23, 2025 at 8:30 a.m.

On October 23, 2025, at Trial before WCJ Shuben, cost petitioner’s attorney, George Corson and defendant’s attorney, Willy Yu appeared. A joint request was made and granted for an Order Taking Off Calendar (OTOC). The parties explicitly waived section 5700. The Minutes of Hearing (Further) reflect that the case was previously submitted and pursuant to the Minutes of Hearing dated March 26, 2025 and that there are no additions or changes to those Minutes of Hearing and the matter was resubmitted. (Minutes of Hearing (Further), 10/23/2025, p.2.)

On January 5, 2026, the WCJ issued the F&O and the same day the WCJ issued an Amended F&O to correct the case number.

At trial, the WCJ marked Exhibits 7, 8, and 9 as “ID ONLY” and were not admitted into the Record of Proceedings as evidence.

I.

Preliminarily, we note that former Labor Code 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.

⁴ This date appears to be an error.

(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 is 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 workers’ compensation administrative law judge, the Report was served on February 12, 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 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 12, 2026.

II.

We first highlight some of the legal principles that may be relevant to our review of this matter. Workers’ compensation proceedings are conducted in English, and with respect to non-English speaking individuals, their due process rights may be violated if the information is not presented in a language they understand. Specifically, we believe that where a non-English speaking injured worker must give testimony or appear at an English only proceeding such as an

Appeals Board hearing, the worker must be able to understand the information provided and the questions asked in order to meaningfully appear at the proceedings.

Similarly, when a C&R is presented, which is a contract to settle a disputed claim, the worker must be able to understand the provisions of the C&R in order for the C&R to be a valid agreement. (Lab. Code §§ 5000-5003; *Camacho v. Target* (2018) 24 Cal.App.5th 291, 301-302 [83 Cal.Comp.Cases 1014 [“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.’” (Citation)].) It is imperative that the injured worker comprehend the meaning of the proceedings, including any documents that they review and sign. Otherwise, an injured worker’s due process rights may be violated if a translator is not provided to translate documents and for the reading of a C&R.

As we reiterated in our recent en banc opinion *Perez v. Chicago Dogs* (2025) 90 Cal.Comp.Cases 830, 836 (Appeals Board en banc), in workers compensation proceedings, all parties retain the fundamental right to due process under both the California and United States Constitutions. (*Rucker v. Workers’ Comp. Appeals Bd.* (2000) 82 Cal.App.4th 151, 157-158 [65 Cal.Comp.Cases 805].)

Section 5811 states in pertinent part that:

“. . .Interpreter fees that are reasonably, actually, and necessarily incurred shall be paid by the employer under this section, provided they are in accordance with the fee schedule adopted by the administrative director.

A qualified interpreter may render services during the following: . . .(D) During those settings which the administrative director determines are reasonably necessary to ascertain the validity or extent of injury to an employee who does not proficiently speak or understand the English language.”

(Lab. Code, § 5811(b)(2).)

AD Rule 9795.3(b)(1) provides:

(b) The following fees for interpreter services provided by a certified or provisionally certified interpreter shall be presumed to be reasonable:

(1) For an appeals board hearing, arbitration, or deposition: ***interpreter fees shall be billed and paid at the greater of the following (i) at the rate for one-half day or one full day as set forth in the Superior Court fee schedule for interpreters in the county where the service was provided, or (ii) at the market rate.*** The interpreter shall establish the market rate for the

interpreter's services by submitting documentation to the claims administrator, including a list of recent similar services performed and the amounts paid for those services. Services over 8 hours shall be paid at the rate of one-eighth the full day rate for each hour of service over 8 hours. (bold and italics added for emphasis.)

Turning to the merits of the petition, an interpreter has the burden of proving among other things that the fees charged were reasonable in order to recover charges for interpreter services. (*Guitron v. Santa Fe Extruders* (2011) 76 Cal.Comp.Cases 228, 234 (Appeals Board en banc); see *Kunz v. Patterson Floor Coverings, Inc.* (2002) 67 Cal.Comp.Cases 1588 (Appeals Board en banc) 1588; *Torres v. AJC Sandblasting* (2012) 77 Cal.Comp.Cases 1113 (Appeals Board en banc); *Tapia v. Skill Masters Staffing* (2008) 73 Cal.Comp.Cases 1338 (Appeals Board en banc) [when the value of the services is not established by a fee schedule, a lien claimant must present evidence of the reasonable value of those services in order to support recovery].)

Here, the WCJ found that cost petitioner interpreted a Compromise and Release for applicant not in connection with a board hearing, arbitration or deposition and that cost petitioner is not entitled to greater of market rate or Los Angeles County Superior Court rate per 8 CCR §9795.3(b)(1). Based on our preliminary review, it is unclear whether the WCJ applied the correct analysis pursuant to AD Rule 9795.3(b)(1) or 9795.3 (b)(2).

On May 30, 2023, cost petitioner provided Spanish translation services for applicant, a Spanish speaker, at the reading and signing of the C&R in Los Angeles County. On June 5, 2023, cost petitioner billed defendant \$350.00 for its services based on the County Superior court rate for Los Angeles County or market rate. In response, defendant paid \$175.00. We will review this issue further since in the present matter, cost petitioner may be entitled to payment for the translation services it provided to applicant for the reading and signing of the C&R at market rate/Superior Court rate per AD Rule 9795.3(b)(1).

We observe that decisions of the Appeals Board “must be based on admitted evidence in the record.” (*Hamilton v. Lockheed Corporation (Hamilton)* (2001) 66 Cal.Comp.Cases 473, 476 (Appeals Board en banc).) The WCJ and the Appeals Board have a duty to further develop the record where there is insufficient evidence on an issue. (*McClune v. Workers' Comp. Appeals Bd.* (1998) 62 Cal.App.4th 1117, 1121-1122 [63 Cal.Comp.Cases 261].) The Appeals Board has a constitutional mandate to “ensure substantial justice in all cases.” (*Kuykendall v. Workers' Comp. Appeals Bd.* (2000) 79 Cal.App.4th 396, 403 [65 Cal.Comp.Cases 264].) The Board may not leave

matters undeveloped where it is clear that additional discovery is needed. (*Id.* at p. 404.) Furthermore, decisions of the Appeals Board must be supported by substantial evidence. (Lab. Code, §§ 5903, 5952(d); *Lamb v. Workmen's Comp. Appeals Bd.* (1974) 11 Cal.3d 274 [39 Cal.Comp.Cases 310]; *Garza v. Workmen's Comp. Appeals Bd.* (1970) 3 Cal.3d 312 [35 Cal.Comp.Cases 500]; *LeVesque v. Workmen's Comp. Appeals Bd.* (1970) 1 Cal.3d 627 [35 Cal.Comp.Cases 16].)

Last, regarding the issue of defendant's liability for attorney's fees and sanctions the WCJ would address these issues in the first instance, and we will defer these issues.

Here, it is unclear from our preliminary review whether or not cost petitioner is entitled to payment under AD Rule 9795.3(b)(1) or 9795.3(b)(2). Taking into account the statutory time constraints for acting on the petition, and based upon our initial review of the record, we believe reconsideration must be granted to allow sufficient opportunity to further study the factual and legal issues in this case. We believe that this action is necessary to give us a complete understanding of the record and to enable us to issue a just and reasoned decision. Reconsideration is therefore granted for this purpose and for such further proceedings as we may hereafter determine to be appropriate.

III.

In addition, under our broad grant of authority, our jurisdiction over this matter is continuing. 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. Industrial Acc. Com. (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. Industrial Acc. Com. (George)* (1954) 125 Cal.App.2d 201, 203 [19 Cal.Comp.Cases 98].) Thus, once reconsideration has been granted, the Appeals Board has the full power to make new and different findings on issues presented for determination at the trial level, even with respect to issues not raised in the petition for reconsideration before it. (See Lab. Code, §§ 5907, 5908, 5908.5; see also *Gonzales v. Industrial Acci. Com.* (1958) 50 Cal.2d 360, 364.) "[t]here is no provision in chapter 7, dealing with proceedings for reconsideration and judicial review, limiting the time within which the commission may make its decision on reconsideration, and in the absence of a statutory authority limitation none will be implied.>"; see generally Lab. Code, § 5803 ["The WCAB has continuing

jurisdiction over its orders, decisions, and awards. . . . At any time, upon notice and after an opportunity to be heard is given to the parties in interest, the appeals board may rescind, alter, or amend any order, decision, or award, good cause appearing therefor.].) “The WCAB . . . is a constitutional court; hence, its final decisions are given res judicata effect.” (*Azadigian v. Workers’ Comp. Appeals Bd.* (1992) 7 Cal.App.4th 372, 374 [57 Cal.Comp.Cases 391; see *Dow Chemical Co. v. Workmen’s Comp. App. Bd.* (1967) 67 Cal.2d 483, 491 [32 Cal.Comp.Cases 431]; *Dakins v. Board of Pension Commissioners* (1982) 134 Cal.App.3d 374, 381 [184 Cal.Rptr. 576]; *Solari v. Atlas-Universal Service, Inc.* (1963) 215 Cal.App.2d 587, 593 [30 Cal.Rptr. 407].) 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. Interlocutory procedural or evidentiary decisions, entered in the midst of the workers’ compensation proceedings, are not considered “final” orders. (*Maranian v. Workers’ Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1070, 1075 [65 Cal.Comp.Cases 650].) [“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”].)

Section 5901 states in relevant part that:

No cause of action arising out of any final order, decision or award made and filed by the appeals board or a workers’ compensation judge shall accrue in any court to any person until and unless the appeals board on its own motion sets aside the final order, decision, or award and removes the proceeding to itself or if the person files a petition for reconsideration, and the reconsideration is granted or denied. . . .

Thus, this is not a final decision on the merits of the Petition for Reconsideration, and we will order that issuance of the final decision after reconsideration is deferred. Once a final decision is issued by the Appeals Board, any aggrieved person may timely seek a writ of review pursuant to Labor Code sections 5950 et seq.

IV.

Accordingly, we grant cost petitioner's Petition for Reconsideration, and order that a final decision after reconsideration is deferred pending further review of the merits of the Petition for Reconsideration and further consideration of the entire record in light of the applicable statutory and decisional law. *While this matter is pending before the Appeals Board, we encourage the parties to participate in the Appeals Board's voluntary mediation program. Inquiries as to the use of our mediation program can be addressed to WCABmediation@dir.ca.gov.*

For the foregoing reasons,

IT IS ORDERED that cost petitioner's Petition for Reconsideration is **GRANTED**.

IT IS FURTHER ORDERED that a final decision after reconsideration is **DEFERRED** pending further review of the merits of the Petition for Reconsideration and further consideration of the entire record in light of the applicable statutory and decisional law.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

/s/ CRAIG L. SNELLINGS, 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.

**GEORGE CORSON
STATE COMPENSATION INSURANCE FUND**

DLM/oo

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