

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

RUBEN MARTINEZ, *Applicant*

vs.

**CENTRAL UNITED PACKAGING, INC.;
EMPLOYERS ASSURANCE COMPANY, *Defendants***

**Adjudication Number: ADJ20001606
Oakland District Office**

**OPINION AND ORDER
DISMISSING PETITION
FOR RECONSIDERATION**

Defendant seeks reconsideration of the “Order Approving Compromise and Release” (OACR) issued on June 17, 2026, by the workers’ compensation administrative law judge (WCJ).

Defendant contends that the OACR erroneously excluded two additional claim numbers, which were intended to be settled by the parties.

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

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 we will dismiss defendant’s petition for reconsideration and return this matter to the trial level so that the WCJ may treat the petition as one seeking to set aside the OACR. The WCJ may conduct a hearing and decide whether the OACR should be set aside. Any party aggrieved by the WCJ’s decision on the petition to set aside may then seek reconsideration at that time.

DISCUSSION

I.

Up through July 1, 2024, petitions for reconsideration were subject to former Labor Code section 5909, which 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.)

During the period from July 2, 2024 through June 30, 2026, petitions for reconsideration were subject to former Labor Code section 5909, which stated 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 Labor Code section 5909(a) (in effect from July 2, 2024 through June 30, 2026), 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 July 7, 2026, and 60 days from the date of transmission is Saturday, September 5, 2026. The next business day that is 60 days from the date of transmission is Tuesday, September 8, 2026. (See Cal. Code Regs., tit. 8, § 10600(b).)¹ This decision is issued by or on Tuesday, September 8, 2026, so that we have timely acted on the petition as required by Labor Code section 5909(a) (in effect from July 2, 2024 through June 30, 2026).

¹ 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.

Labor Code section 5909(b)(1) (in effect from July 2, 2024 through June 30, 2026) 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. Labor Code section 5909(b)(2) (in effect from July 2, 2024 through June 30, 2026) 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 July 7, 2026, and the case was transmitted to the Appeals Board on July 7, 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 Labor Code section 5909(b)(1) (in effect from July 2, 2024 through June 30, 2026), because service of the Report in compliance with Labor Code section 5909(b)(2) (in effect from July 2, 2024 through June 30, 2026) provided them with actual notice as to the commencement of the 60-day period on July 7, 2026.

II.

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].) Substantial justice is “[j]ustice fairly administered according to the rules of substantive law, regardless of any procedural errors not affecting the litigant’s substantive rights; a fair trial on the merits.” (Black’s Law Dictionary (7th ed. 1999).)

Labor Code section 5313 requires a WCJ to state the “reasons or grounds upon which the determination was made.” The WCJ’s opinion on decision “enables the parties, and the Board if reconsideration is sought, to ascertain the basis for the decision, and makes the right of seeking reconsideration more meaningful.” (*Hamilton v. Lockheed Corporation (Hamilton)* (2001) 66 Cal.Comp.Cases 473, 476 (Appeals Board en banc), citing *Evans v. Workmen’s Comp. Appeals Bd.* (1968) 68 Cal.2d 753, 755 [33 Cal.Comp.Cases 350, 351].) A decision “must be based on admitted evidence in the record” (*Hamilton, supra*, at p. 478), and 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].) As required by section 5313 and explained in *Hamilton*, “the WCJ is charged with the responsibility of referring to the evidence in the opinion on decision, and of clearly designating the evidence that forms the basis of the decision.” (*Hamilton, supra*, at p. 475.)

Here, none of the issues discussed in defendant’s petition for reconsideration have proceeded to a hearing. Defendant, in essence, requests to set aside the OACR on the grounds of mistake. Defendant bears the burden of proof on that issue, which absent joint agreement of the parties, requires that the matter proceed to trial.

Accordingly, we dismiss defendant’s Petition for Reconsideration as the issues raised are not ripe for adjudication. We return this matter to the trial level so that the petition may be treated as a petition to set aside the OACR and so that a hearing may be conducted on the petition.

For the foregoing reasons,

IT IS ORDERED that defendant's Petition for Reconsideration of the Order Approving Compromise and Release issued on June 16, 2026, by the WCJ is **DISMISSED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ PAUL F. KELLY, COMMISSIONER

I CONCUR,

/s/ CRAIG L. SNELLINGS, COMMISSIONER

/s/ JOSÉ H. RAZO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

AUGUST 31, 2026

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

**RUBEN MARTINEZ
ANDREW LEE
TOBIN LUCKS**

EDL/mt

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