

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

VERONICA JIMENEZ, *Applicant*

vs.

ABM INDUSTRIES administered by ESIS CHATSWORTH, *Defendants*

**Adjudication Number: ADJ16131890
Anaheim District Office**

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

On October 13, 2025, we issued an Opinion and Order Granting Petition for Reconsideration and Notice of Intention to Rescind Arbitrator's Decision (NIT) regarding the Findings of Fact and Award (F&A) issued by the workers' compensation arbitrator (WCA) on June 20, 2025. In our NIT, we stated that we were unable to conduct meaningful review due to lack of a complete record and declared our intention to rescind the WCA's June 20, 2025 F&A if a complete record of the proceedings was not filed in EAMS¹ within thirty (30) days after service of the NIT. While this matter was still pending on reconsideration before the Appeals Board, on February 11, 2026, the WCA issued a second F&A, and applicant filed a second Petition for Reconsideration.

While several documents were filed in EAMS, multiple evidentiary documents are still missing so that we are unable to fully review and determine the merits of the July 15, 2025 Petition for Reconsideration, including, but not limited to, a summary of evidence that properly identifies the stipulations and issues, and contains evidentiary rulings and a description of exhibits admitted into evidence.

¹ EAMS is an acronym for Electronic Adjudication Management System, which is the computerized system used by the Division of Workers' Compensation (DWC) to store and maintain the Workers' Compensation Appeals Board electronic case files. (See Cal. Code Regs., tit. 8, §§ 10269(p), 10215 et seq. 10301(p)).

Based on our review of the limited submitted record, and for the reasons stated in our October 13, 2025 NIT, which we incorporate herein, as our Decision After Reconsideration, we will rescind the June 20, 2025 F&A. With respect to the February 11, 2026 Findings of Fact and Award, it is void ab initio because no final decision by the Appeals Board had issued and the matter was still pending at the Appeals Board. Thus, the WCA did not have the authority to conduct further proceedings. (Cal. Code Regs., tit. 8, § 10961.) We will vacate the February 11, 2026 decision and we will dismiss applicant’s second Petition for Reconsideration.

Finally, we will return the matter to the WCA for further proceedings consistent with this decision. The WCA should conduct further proceedings as the WCA deems appropriate to create a record that complies with WCAB Rules 10914 and 10990 (Cal. Code Regs., tit. 8 §§ 10914, 10990) and issue a new decision.

DISCUSSION

I.

Preliminarily, Former Labor Code² 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 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.”

² All further references are to the Labor Code unless otherwise noted.

Applicant filed her second Petition for Reconsideration on March 6, 2026, and 60 days from that date is May 5, 2026. Since the case was already transmitted to the Appeals Board previously, in an abundance of caution, we have calculated the 60 days to act based on the date of filing of the second Petition for Reconsideration. This decision is issued by or on May 5, 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 second Report and Recommendation by the WCJ, the Report was served on March 26, 2026, but the case had already been transmitted to the Appeals Board on August 13, 2025. Service of the Report and transmission of the case to the Appeals Board did not occur on the same day. Thus, the parties did not have accurate notice as to the commencement of the 60-day period.

II.

The Appeals Board may not ignore due process for the sake of expediency. (*Barri v. Workers' Comp. Appeals Bd.* (2018) 28 Cal.App.5th 428, 469 [83 Cal.Comp.Cases 1643] [claimants in workers' compensation proceedings are not denied due process when proceedings are delayed in order to ensure compliance with the mandate to accomplish substantial justice]; *Rucker v. Workers' Comp. Appeals Bd.* (2000) 82 Cal.App.4th 151, 157-158 [65 Cal.Comp.Cases 805] [all parties to a workers' compensation proceeding retain the fundamental right to due process and a fair hearing under both the California and United States Constitutions].) "Even though workers' compensation matters are to be handled expeditiously by the Board and its trial judges, administrative efficiency at the expense of due process is not permissible." (*Fremont Indem. Co. v. Workers' Comp. Appeals Bd.* (1984) 153 Cal.App.3d 965, 971 [49 Cal.Comp.Cases 288]; see *Ogden Entertainment Services v. Workers' Comp. Appeals Bd. (Von Ritzhoff)* (2014) 233 Cal.App.4th 970, 985 [80 Cal.Comp.Cases 1].)

The Appeals Board's constitutional requirement to accomplish substantial justice means that the Appeals Board must protect the due process rights of every person seeking reconsideration.

(See *San Bernardino Cmty. Hosp. v. Workers' Comp. Appeals Bd.* (1999) 74 Cal.App.4th 928, 936 [64 Cal.Comp.Cases 986] [“essence of due process is . . . notice and the opportunity to be heard”]; *Katzin v. Workers' Comp. Appeals Bd.* (1992) 5 Cal.App.4th 703, 710 [57 Cal.Comp.Cases 230].) In fact, “a denial of due process renders the appeals board’s decision unreasonable...” and therefore vulnerable to a writ of review. (*Von Ritzhoff, supra*, 233 Cal.App.4th at p. 985 citing Lab. Code, § 5952(a), (c).) Thus, due process requires a meaningful consideration of the merits of every case de novo with a well-reasoned decision based on the evidentiary record and the relevant law.

A petition for reconsideration of an arbitrator’s decision or award made pursuant to a collective bargaining agreement per the provisions of sections 3201.5 and 3201.7 shall be subject to review by the appeals board in the same manner as provided for reconsideration of a final order, decision or award made and filed by a workers’ compensation administrative law judge. (Lab. Code, §§ 3201.5(a)(1) and 3201.7(a)(3)(A).)

As with a workers’ compensation administrative law judge (WCJ), an arbitrator’s decision must be based on admitted evidence and must be supported by substantial evidence. (*Hamilton v. Lockheed Corporation (Hamilton)* (2001) 66 Cal.Comp.Cases 473, 476 (Appeals Board en banc).) An adequate and complete record is necessary to understand the basis for the WCA or the WCJ’s decision. (Lab. Code, § 5313; see also Cal. Code Regs., tit. 8, § 10566.) “It is the responsibility of the parties and the WCJ to ensure that the record is complete when a case is submitted for decision on the record. At a minimum, the record must contain, in properly organized form, the issues submitted for decision, the admissions and stipulations of the parties, and admitted evidence.” (*Hamilton, supra*, 66 Cal.Comp.Cases at p. 475.) The WCJ’s decision must “set[] forth clearly and concisely the reasons for the decision made on each issue, and the evidence relied on,” so that “the parties, and the Board if reconsideration is sought, [can] ascertain the basis for the decision[.] . . .

For the opinion on decision to be meaningful, the WCJ must refer with specificity to an adequate and completely developed record.” (*Id.* at p. 476 (citing *Evans v. Workmen’s Comp. Appeals Bd.* (1968) 68 Cal.2d 753, 755 [33 Cal.Comp.Cases 350] [a full and complete record allows for a meaningful right of reconsideration]; *Lewis v. Arlie Rogers & Sons* (2003) 69 Cal.Comp.Cases 490, 494, emphasis in original [“decision [must] be based on an ascertainable and adequate record,” including “an orderly identification in the record of the evidence submitted by a party; and what evidence is admitted or denied admission.”].) “An organized evidentiary record assists an arbitrator in rendering a decision, informs the parties what evidence will be utilized by

the arbitrator in making a determination, preserves the rights of parties to object to proffered evidence, and affords meaningful review by the Board, or reviewing tribunal.” (*Id.*)

With certain limited exceptions, arbitrators shall have all of the statutory and regulatory duties and responsibilities of a workers’ compensation judge. (Lab. Code, § 5272.) These duties and responsibilities include creating a full record, identifying the stipulations and issues on the record, and ensuring that the exhibits filed³ by the parties are properly organized and separated so they may be electronically uploaded as part of the complete arbitration file. (See Cal. Code Regs., tit. 8 §10205.12(b) [proper filing of exhibits].) This may also include delegation of the responsibility to the parties for filing the exhibits and documents required per WCAB Rule 10990(f)(3).

Upon return of this matter to the trial level, it is recommended that the parties supplement the existing record.

Pursuant to WCAB Rule 10961, no WCJ or WCA shall issue any order in a case until the Appeals Board has denied or dismissed the petition for reconsideration or issued a decision after reconsideration. (Cal. Code Regs., tit. 8, § 10961.) One of the purposes of WCAB Rule 10961 is to avoid inconsistent rulings and to prevent bifurcation. Thus, under WCAB Rule 10961, the WCA lacked authority to issue the decision of February 11, 2026, and we conclude that it is void ab initio. Consequently, we will vacate it, and we will dismiss applicant’s Petition for Reconsideration in response to the February 11, 2026 decision.

Accordingly, as our Decision after Reconsideration, we rescind the arbitrator’s decision of June 20, 2025. We vacate the arbitrator’s decision of February 11, 2026, and we dismiss applicant’s second Petition for Reconsideration. Finally, we return the matter to the WCA for further proceedings consistent with this opinion.

When the WCA issues a new decision, any aggrieved person may timely seek reconsideration.

³ Rule 10205(t) (Cal. Code Regs., tit. 8 § 10205(t)) states:

(t) To “file” a document means to either deliver a document or cause it to be delivered to the district office with venue or to the appeals board for the purpose of having it included in the adjudication file or to electronically file a document via EAMS in accordance with these regulations.

For the foregoing reasons,

IT IS ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the Findings of Fact and Award issued by the WCA on June 20, 2025 is **RESCINDED**.

IT IS FURTHER ORDERED that the Findings of Fact and Award issued by the WCA on February 11, 2026 is **VACATED**.

IT IS FURTHER ORDERED that applicant's Petition for Reconsideration of the Findings of Fact and Award issued by the WCA on February 11, 2026 is **DISMISSED**.

IT IS FURTHER ORDERED that the matter is **RETURNED** to the WCA for further proceedings consistent with this decision.

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

May 5, 2026

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

**VERONICA JIMENEZ
EQUITABLE LAW
SCHOCHET SOLOMON
LINDA DAVIDSON-GUERRA, ARBITRATOR**

SL/abs

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