

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

PAOLA LIZARRAGA, *Applicant*

vs.

**DISNEYLAND RESORT, permissibly self-insured;
adjusted by DISNEYLAND CLAIMS, *Defendants***

**Adjudication Number: ADJ17190671
Van Nuys District Office**

**OPINION AND ORDER
DISMISSING PETITION FOR
RECONSIDERATION**

Applicant seeks reconsideration of the Order Approving Compromise & Release (OACR) of October 25, 2023, wherein the workers' compensation judge (WCJ) approved the Compromise and Release agreement (C&R) of the parties. Applicant contends that she was incorrectly advised that all liens were resolved and that she has been deprived of her right to pursue a claim of workplace discrimination.

We have received an Answer from defendant. The WCJ¹ prepared a Report and Recommendation on Petition for Reconsideration (Report), recommending that the Petition be dismissed as untimely or else treated as a petition to set aside the C&R.

We have considered the Petition for Reconsideration, the Answer, and the contents of the Report, and we have reviewed the record in this matter. For the reasons discussed below, we will dismiss the Petition as one for reconsideration and return the matter to the district office to treat the Petition as a petition to set aside the OACR.

¹ The WCJ who presided over this case is no longer at the district office and therefore the Presiding WCJ (PWJC) in the district office delegated the preparation of the Report to a different WCJ pursuant to 8 CCR 10962. (Report, p. 1.)

FACTS

Applicant claimed industrial injury to various body parts while employed by defendant as a dinner cook on December 25, 2022.

On May 2, 2023, the parties signed the first compromise and release resolving the case in chief for \$45,000.00. The WCJ issued the order approving compromise and release on May 25, 2023. On May 31, 2023, applicant filed her first petition for reconsideration seeking to rescind the order approving compromise and release on the grounds of ineffective counsel and also filed a Notice of Dismissal of her attorney. On June 2, 2023, the WCJ issued an order rescinding the order approving compromise and release.

On July 5, 2023, following a status conference attended by the parties, the WCJ issued an amended order approving compromise and release; the WCJ approved the prior compromise and release agreement with an amendment that defendant withhold the attorney's fee pending further proceedings.

On September 29, 2023, applicant filed her second petition for reconsideration seeking to rescind the amended compromise and release agreement and obtain a more appropriate and adequate settlement. On October 13, 2023, the WCJ rescinded the amended order approving compromise and release, ordered that the petition for reconsideration be treated as a petition to set aside the May 2, 2023 order, and set a status conference.

Following a status conference on October 25, 2023, the parties signed the most recent C&R and the WCJ issued the OACR on the same date. The case was settled in the amount of \$73,317.10 to applicant with attorney fees of \$6,750.00. The OACR stated that the "Board shall retain jurisdiction of unpaid medical-legal, self-procured medical, other liens, and penalty and interest claims."

On July 16, 2025, applicant filed a Petition for Benefits for Serious and Willful Misconduct of Employer Pursuant to Labor Code Section 4553; a Petition to Reopen; and the Petition for Reconsideration.

DISCUSSION

I.

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 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 August 8, 2025, and 60 days from the date of transmission is October 7, 2025. This decision is issued by or on October 7, 2025, 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 August 8, 2025, and the case

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

was transmitted to the Appeals Board on August 8, 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 August 8, 2025.

II.

The Appeals Board has continuing jurisdiction to “rescind, alter, or amend any order, decision, or award,” if a petition is filed within five years of the date of injury and “good cause” to reopen is alleged and shown. (Lab. Code, §§ 5803, 5804.) An order approving compromise and release is an order that may be reopened for “good cause” under section 5803. Whether “good cause” exists to set aside a settlement depends upon the facts and circumstances of each case. “Good cause” includes mutual mistake of fact, duress, fraud, undue influence, and procedural irregularities. (*Johnson v. Workmen's Comp. Appeals Bd.* (1970) 2 Cal. 3d 964, 975 [35 Cal. Comp. Cases 362]; *Santa Maria Bonita School District v. Workers' Comp. Appeals Bd. (Recinos)* (2002) 67 Cal.Comp.Cases 848, 850 (writ den.); *City of Beverly Hills v. Workers' Comp. Appeals Bd. (Dowdle)* (1997) 62 Cal.Comp.Cases 1691, 1692 (writ den.); *Smith v. Workers' Comp. Appeals Bd.* (1985) 168 Cal.App.3d 1160, 1170 [50 Cal. Comp. Cases 311].)

Further, the “Workers’ Compensation Appeals Board shall inquire into the adequacy of all Compromise and Release agreements and Stipulations with Request for Award, and may set the matter for hearing to take evidence when necessary to determine whether the agreement should be approved or disapproved, or issue findings and awards.” (Cal. Code Regs., tit. 8, § 10700(b).)

As a part of our inquiry, we observe that contract principles apply to settlements of workers’ compensation disputes. The legal principles governing compromise and release agreements are the same as those governing other contracts. (*Burbank Studios v. Workers’ Co. Appeals Bd. (Yount)* (1982) 134 Cal.App.3d 929, 935 [47 Cal.Comp.Cases 832].) Thus, for a compromise and release agreement to be effective, the necessary elements of a contract must exist including an offer and an acceptance. (*Id.*) The essential elements of a contract include mutual consent and consideration. (Civ. Code, §§ 1550, 1565, 1580, 1584, 1595, 1605, et seq.) There can be no contract unless there is a meeting of the minds, and the parties mutually agree upon the same thing. (Civ. Code, §§ 1550, 1565, 1580; *Sackett v. Starr* (1949) 95 Cal.App.2d 128, 133; *Sieck v. Hall* (1934) 139 Cal.App. 279, 291; *American Can Co. v. Agricultural Ins. Co.* (1909) 12

Cal.App.133, 137.) Pursuant to case law and section 1636 of the Civil Code, a contract must be so interpreted as to give effect to the mutual intention of the parties as it existed at the time of contracting, so far as the same is ascertainable and lawful. (Civ. Code, § 1636; *TRB Investments, Inc. v. Fireman's Fund Ins. Co.* (2006) 40 Cal.4th 19, 27; *County of San Joaquin v. Workers' Compensation Appeals Bd. (Sepulveda)* (2004) 117 Cal.App.4th 1180, 1184 [69 Cal.Comp.Cases 193].)

Additionally, there must be a complete record for our review of the case. “[A] proper record enables any reviewing tribunal, be it the Board on reconsideration or a court on further appeal, to understand the basis for the decision.” (*Hamilton v. Lockheed Corporation* (2001) 66 Cal.Comp.Cases 473, 475 (Appeals Bd. en banc).) The Appeals Board’s record of proceedings is maintained in the adjudication file and consists of: the pleadings, minutes of hearing and summary of evidence, transcripts, if prepared and filed, proofs of service, evidence received in the course of a hearing, exhibits marked but not received in evidence, notices, petitions, briefs, findings, orders, decisions, and awards, and the arbitrator’s file, if any. . . . Documents that are in the adjudication file but have not been received or offered in evidence are not part of the record of proceedings. (Cal. Code Regs., tit. 8, § 10803.)

Finally, all parties in workers’ compensation proceedings retain their fundamental right to due process and a fair hearing 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] (*Rucker*).) A fair hearing includes, but is not limited to, the opportunity to call and cross-examine witnesses; introduce and inspect exhibits; and to offer evidence in rebuttal. (*Gangwish v. Workers' Comp. Appeals Bd.* (2001) 89 Cal.App.4th 1284, 1295 [66 Cal.Comp.Cases 584]; *Rucker, supra*, 82 Cal.App.4th at pp. 157-158, citing *Kaiser Co. v. Industrial Acc. Com.* (1952) 109 Cal.App.2d 54, 58 [17 Cal.Comp.Cases 21]; *Katzin v. Workers' Comp. Appeals Bd.* (1992) 5 Cal.App.4th 703, 710-712 [57 Cal.Comp.Cases 230].)

While the WCJ held a status conference that the parties attended, no testimony was given and no exhibits were entered into evidence. Therefore, we cannot make a decision without giving the parties an opportunity to be heard and for a WCJ to create a complete record for our review. Accordingly, we will dismiss the Petition as premature, and return this matter to PW CJ for reassignment to a new WCJ to treat the Petition as a petition to set aside the OACR of October 25, 2023.

For the foregoing reasons,

IT IS ORDERED that the Petition for Reconsideration is **DISMISSED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER

/s/ PAUL F. KELLY, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

October 7, 2025

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

**PAOLA LIZARRAGA
LAUGHLIN, FALBO, LEVY & MORESI**

JMR/abs

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