

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

ROGER CORDOBA, *Applicant*

vs.

**ARAMARK BUSINESS FACILITIES LLC;
ACE AMERICAN INSURANCE COMPANY, administered by
SEDGWICK CLAIMS MANAGEMENT SERVICES, INC., *Defendants***

**Adjudication Number: ADJ20112783
San Francisco District Office**

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

Applicant seeks reconsideration of the Findings and Order (F&O) and Notice of Intent to Issue Sanctions (NIT) issued on June 17, 2025, by a workers' compensation administration law judge (WCJ).

Applicant contends that sanctions and an award of attorney's fees against defendant should have issued instead of an NIT against applicant's attorney.

We did not receive an answer from defendant. The WCJ filed a Report and Recommendation on Petition for Reconsideration (Report) recommending that the petition be denied.

Applicant also filed a July 29, 2025 request for acceptance and consideration of the Supplemental Response and Supplemental Response to Petition for Reconsideration. We accept and have considered the supplemental pleading. (Cal. Code Regs., tit. 8 § 10964(c).)

We have considered the allegations of the Petition for Reconsideration, the contents of the report of the WCJ and the Supplemental Response with respect thereto. Based on our review of the record, and for the reasons discussed below, we will grant applicant's Petition for Reconsideration and rescind the F&O. We return the matter to the WCJ for further proceedings consistent with this decision.

FACTS

The WCJ's Report states as follows:

Roger Cordoba filed a claim for a cumulative trauma for the period ending September 9, 2019 to his back while employed by Lucille Packard Children's Hospital, insured for workers' compensation purposes by Security National. That case was assigned WCAB Case number ADJ1291444[]6. The matter proceeded to trial in front of the undersigned, and a findings and award was issued on April 12, 2022. A petition to reopen was filed. On August 8, 2024, Security National filed a petition for joinder of Ace American for Aramark as a party defendant. On August 20, 2024, the undersigned issued an order denying the petition for joinder as the applicant's employment with Aramark was subsequent to the period of cumulative trauma found in the April 1, 2022 Finding and Award.

On November 14, 2024, Security National filed an application alleging that Roger Cordoba, while employed as a patient experience manager during the period of June 24, 2022 through November 5, 2024 by Aramark Business Facilities, insured for workers' compensation purposes by Ace American Insurance, sustained an injury to the back, abdomen and digestive system. This was assigned WCAB case number ADJ20112783.

On February 4, 2025, Roger Cordoba, through his attorney, filed a Petition for Sanctions and Petition to Dismiss the application filed in ADJ20112783. On February 4, 2025, Safety National, through its' attorney, filed a letter requesting dismissal of the application. Also on February 4, 2025, the attorney for Roger Cordoba filed a declaration of readiness to proceed.

At the March 27, 2025 mandatory settlement conference, Safety National agreed to dismiss the application and Ace for Aramark was in agreement. However, the attorney for Rodger Cordoba was not in agreement with dismissal and instead wanted to pursue his petition for sanctions.

The issue of Roger Cordoba's petition for sanctions proceeded to trial on May 6, 2025. In my June 16, 2025 Findings and Order I found that there was no basis for sanctions against either Safety National or their attorney in this matter, and that Rodger Cordoba's attorney was not entitled to any attorney's fees in connection with the dispute. I also raised on my own motion my intention to impose monetary sanctions against Nadeem Makada and the Law Office of Nadeem Makada, and of my intent to set an evidentiary hearing on that issue.

(Report, at pp. 2-3.)

DISCUSSION

I.

Preliminarily, we note that 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. (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 July 16, 2025 and 60 days from the date of transmission is Sunday, September 14, 2025. The next business day that is 60 days from the date of transmission is Monday, September 15, 2025. (See Cal. Code Regs., tit. 8 § 10600(b).)² This decision was issued by or on September 15, 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

¹ All further statutory references are to the Labor Code, unless otherwise noted.

² 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.

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.

According to the proof of service for the Report and Recommendation by the WCJ, the Report was served on July 16, 2025, and the case was transmitted to the Appeals Board on July 16, 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 July 16, 2025.

II.

We begin with the issue of alleged bad-faith actions or tactics that are frivolous or solely intended to cause unnecessary delay. In relevant part, section 5813 states:

The workers' compensation referee or appeals board may order a party, the party's attorney, or both, to pay any reasonable expenses, including attorney's fees and costs, incurred by another party as a result of bad-faith actions or tactics that are frivolous or solely intended to cause unnecessary delay...

(Lab. Code, § 5813.)

Sanctions under section 5813 are designed to punish litigation abuses and to provide the court with a tool for curbing improper legal tactics and controlling their calendars. (*Duncan v. Workers' Comp. Appeals Bd.* (2008) 166 Cal.App.4th 294, 302.) Accordingly, sanctions are similar to penalties under section 5814 in that they are designed to have both remedial and penal aspects. (See *Ramirez v. Drive Financial Services* (2008) 73 Cal.Comp.Cases 1324 (Appeals Bd. en banc).) Here, while it appears that on the current record applicant has not shown that defendant's filing of the Application was frivolous or solely intended to cause delay, we do not consider this issue as it is premature.³

³ Applicant's Exhibit 1 and Exhibit 2 have been admitted to the record in error as they are pleadings which are allegations by a party. (See *Hamilton v. Lockheed Corporation (Hamilton)* (2001) 66 Cal.Comp.Cases 473, 476 (Appeals Board en banc) ["Legal argument is not evidence"].)

Despite applicant filing a single petition that both sought to dismiss the Application and sought sanctions against defendant for filing the Application, the issue of whether the Application should be dismissed has yet to be addressed. This omission is improper.

WCAB Rule 10787(a) states that:

- a) The parties shall submit for decision all matters properly in issue at a single trial and produce at the trial all necessary evidence, including witnesses, documents, medical reports, payroll statements and all other matters considered essential in the proof of a party's claim or defense. However, a workers' compensation judge may order that the issues in a case be bifurcated and tried separately upon a showing of good cause.

(Cal. Code Regs., tit. 8, § 10787(a).)

Here, there is no explanation in the record why the issues listed in applicant's February 4, 2025 petition for dismissal and sanctions were bifurcated, and we do not see that any good cause to bifurcate the two issues was presented. Consideration of whether applicant's petition for dismissal of the Application should be granted or denied is integral to understanding if the Application was filed in good faith or bad faith. That is, the determination of whether the Application is properly filed or should be dismissed must occur *before* addressing the issue of whether defendant filed it frivolously or with the intention to cause delay.

Furthermore, decisions of the Appeals Board "must be based on admitted evidence in the record." (*Hamilton, supra*, 66 Cal.Comp.Cases at p. 476.) 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].) An adequate and complete record is necessary to understand the basis for the WCJ's decision. (Lab. Code, § 5313; see also Cal. Code Regs., tit.8, § 10787.) "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].)

Accordingly, we grant applicant’s Petition for Reconsideration, rescind the F&O, which includes recission of the NIT, and return the matter to the WCJ for further proceedings consistent with this opinion.

For the foregoing reasons,

IT IS ORDERED that applicant's Petition for Reconsideration of the decision of June 17, 2025 is **GRANTED**.

IT IS FURTHER ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the Finding and Order of June 17, 2025, is **RESCINDED** and that the matter is **RETURNED** to the trial level for further proceedings consistent with this decision.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ CRAIG SNELLINGS, COMMISSIONER

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

September 15, 2025

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

**ROGER CORDOBA
LAW OFFICES OF NADEEM MAKADA
LAUGHLIN, FALBO, LEVY & MORESI
THOMAS KINSEY**

SL/abs

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