**WORKERS' COMPENSATION APPEALS BOARD**

**STATE OF CALIFORNIA**

**BRENDA GONZALEZ, *Applicant***

**vs.**

**INSOURCE EMPLOYER SOLUTIONS, INC. LCF; FAIRWAY STAFFING SERVICES, INC.; SUNZ HOLDINGS, LLC, administered by NEXT LEVEL ADMINISTRATORS, *Defendants***

**Adjudication Number: ADJ20228986**
**Anaheim District Office**

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

Lien claimant Medland Medical Tustin seeks reconsideration of the Findings and Order (F&O) issued on February 10, 2026, by the workers' compensation administrative law judge (WCJ). The WCJ found in pertinent, part that: 1) applicant while employed as a warehouse worker by defendant did not sustain injury arising out of and occurring in the course of employment (AOE/COE) on September 27, 2024; 2) applicant's primary treating physician was Omid Haghighinia, D.C.; 3) lien claimant's report was not capable of proving or disproving a contested claim due to the false and/or inaccurate history provided in the report; and 4) defendant's exhibits B, C, and E are admitted into evidence.

Lien claimant contends in relevant part that the WCJ erred in relying on the testimony of defendant's risk manager Jesse Robledo, who was not present at the time of applicant's injury, and incomplete personnel records to find a "false history"; and that defendants and the Court relied upon lien claimant's reporting as a basis for adequacy for the Compromise & Release (C&R) and to obtain the Order Approving the Compromise and Release (OACR).

We received an Answer from defendant.

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

Lien claimant requested permission to file a supplemental petition in response to the WCJ's Report, which we accept. (Cal. Code Regs., tit. 8, § 10964.)

We have considered the allegations in the Petition, the Answer, the Supplemental Petition and the contents of the Report. Based on our review of the record, and as discussed below, we will grant the Petition for Reconsideration, rescind the F&O and substitute a new Findings of Fact that finds that applicant's injury arose out of and in the course of employment and defers all other issues.

**BACKGROUND**

We will briefly review the relevant facts.

Applicant claimed injury to her back while employed by defendant as a warehouse worker on September 27, 2024.

The entirety of defendant's personnel records reflect that: 1. applicant completed documents with defendant on September 5, 2024. The documents show that applicant worked at Accurate Metal Products from June 2017 to January 1, 2024, as an office assistant, and that Jafet Gomez, "Acc Supervisor," signed documents on behalf of the employer (Exhibit B, pp. 1-25); and 2. according to a record prepared by defendant's risk manager Mr. Robledo on December 19, 2024, applicant was hired on September 27, 2024 and completed her four hour shift on September 27, 2024, but did not return for any further assignments. (Exhibit B, p. 26.)

Applicant's pay record from defendant for the week from September 23, 2024 to September 29, 2024, reflects that she was paid for four hours of work from 3:00 p.m. to 7:00 p.m. on September 27, 2024, and that her supervisor was Vanessa Herrera. (Exhibit C.)

On December 11, 2024, applicant filed an Application for Adjudication of Claim (Application) claiming a specific injury to her back while employed by defendant as a warehouse worker on September 27, 2024.

On December 18, 2024, pursuant to Labor Code section 4600, applicant designated Dr. Haghighinia as her primary treating physician (PTP) for the injury on September 27, 2024. (Exhibit 2, 12/18/2024.) The letter requests that Dr. Haghighinia perform a comprehensive medical-legal evaluation and prepare a narrative report discussing all medical-legal issues including the appropriateness of all previously recommended treatment. (Exhibit 2, 12/18/2024.)

In a letter dated January 2, 2025, defendant issued a Notice Regarding Denial of Workers' Compensation Benefits to applicant. The letter stated,

> After careful consideration of all available information, we are denying liability for your claim of injury. Workers' compensation benefits are being denied because of the following –
>
> 1. Pursuant to my employer level investigation, there exist [*sic*] no admissible substantial medical, legal or factual evidence to support your alleged injury arose out of employment/during the course of employment.
>
> 2. Pursuant to California Labor Code 3600(a)(10), this is a post termination filing.

(Exhibit A, 1/2/2025, p. 1.)

On January 15, 2025, defendant filed an Answer denying injury, insurance coverage, liability for self-procured treatment, liability for future medical treatment, medical-legal costs, earnings, periods of disability, rehabilitation, supplemental job displacement/return to work, and permanent disability.

On January 21, 2025, in response to defendant's request, the Medical Unit issued qualified medical evaluator (QME) Panel #7772072 in the specialty of orthopedic surgery. After strikes, Ryan C. Meineke, M.D., was appointed as the QME.

On February 3, 2025, Dr. Haghighinia examined applicant, and on February 10, 2025, he issued a "Primary Treating Physician's Comprehensive Medical-Legal AOE/COE Report" for applicant's claimed injury of September 27, 2024. (Exhibit 3, 2/3/2025.) The report is addressed to the applicant's attorney and defendant. The report begins by saying that:

> This Medical-Legal report is issued pursuant to Labor Code §§4620, *et seq.* and 5307.6, and California Code of Regulations § 9793(c)(2), which defines a comprehensive medical-legal evaluation as an evaluation of an injured worker which results in the preparation of a narrative medical report, and is performed by **the primary treating physician** for the purpose of proving or disproving a contested claim; **and** California Code of Regulations § 9793(h)(2), which provides **that the report is obtained at the request of a party or parties** for the purpose of proving or disproving a contested claim and addresses the disputed medical fact or facts specified by the party who requested the comprehensive medical-legal evaluation report.
>
> This patient alleges injuries to body parts which are in dispute. I have conducted a Medical-Legal evaluation to determine if the injuries to these body parts occurred as a consequence of the industrial injuries referenced above.

> Pursuant to California Code of Regulations §9793(b)(1), a contested claim is one in which the claims administrator has rejected liability for a claimed benefit.

(Exhibit 3, 2/10/2025, pp.1-2.)

> Dr. Haghighinia's report states,
>
> Ms. Gonzalez is evaluated today upon referral and request by their attorney for a Primary Treating Physician's Comprehensive Medical-Legal Evaluation regarding a specific trauma injury that occurred from 09/27/2024 while working for **Fairway Staffing Services Inc**.
>
> This is a 34-year-old right-handed female who presents today through her applicant attorney regarding a work-related injury sustained on September 27, 2024. At the time of the injury, she was employed by Fairway Staffing Services Inc. as a full-time warehouse laborer, working 8 hours per day, 5 days a week since September 1, 2024.
>
> Her job duties included lifting, pushing, and pulling weights of approximately 30-35 pounds, fine manipulation of both upper extremities, repetitive kneeling and squatting, bending and stooping, reaching, and performing above-shoulder-level activities.
>
> Prior to this employment, she was not working for any other employer. She had been unemployed for several months in 2024 before joining Fairway Staffing Services Inc.
>
> The patient previously worked as an office assistant for AMP Manufacturing from 2017-2024. As a secretarial type of work, there she needed to do only light duties.
> . . .
>
> The patient reported that she sustained her injury on September 27, 2024, while performing her regular job duties. She and five other employees were instructed to move a heavy metal table to a different location. She was positioned with two coworkers on one side, while three others held the opposite side. As she exerted force to lift the table, she experienced sudden pain and discomfort in her lower back, which she attributed to excessive strain.
>
> She did not report the injury at the time, as it was the end of the workday. The following day, she was unable to return to work due to increasing pain. She initially hoped the pain would subside with rest, but it persisted.
>
> A few days later, after returning to work, she informed her employer that the job was unsuitable for her due to ongoing back pain and discomfort. However, she did not formally report the injury, assuming it was due to normal soreness from work activities.

> The patient sought treatment from a chiropractor and underwent acupuncture therapy. While these provided temporary relief, she discontinued chiropractic care due to financial constraints. Acupuncture treatment was later covered through Medi-Cal but was not authorized for further sessions.
> . . .
>
> The patient's primary complaint is persistent lower back pain, particularly in the lumbosacral region. She reports slight radiculopathy, especially during hip flexion, with positive straight leg raise (SLR) findings bilaterally. Examination reveals generalized soreness and muscle spasms in the paraspinal musculature near the lumbosacral joint line, along with stiffness and pain in both sacroiliac joints.
>
> Based on the physical examination performed today, review of the patient's history, and the mechanism of injury, it is my professional opinion that the patient's lumbar spine pain and discomfort are most likely related to the injury sustained on 09/27/2024. The patient reported lifting a heavy table at the time of the injury, which led to pain and discomfort in the lumbar region.
>
> However, it is important to note that the patient experienced a previous injury in 2013, which also affected the lumbar spine, causing pain and discomfort. This prior injury necessitated chiropractic treatment and acupuncture therapy.
>
> Once the patient reaches maximum medical improvement (MMI), consideration of apportionment will be required, as the ongoing symptoms in the lumbar spine may be a combination of the recent injury and the prior 2013 incident.
>
> Given the patient's current symptoms, physical findings and the nature of her injury, I believe that this patient's current condition and complaints are the direct result of her industrial injury of 09/27/2024.

(Exhibit 3, 2/10/2025, pp. 8-9.)

On March 6, 2025, the parties entered into a C&R resolving their dispute. In Paragraph 9, it states that: "The parties stipulate that there exists an issue which if resolved in favor of defendants would defeat any right of applicant to any workers' compensation benefits." The OACR states in relevant part that: "In view of the contested issues as set forth in the offer of proof, there are good faith issues that, if resolved against the applicant, would defeat the applicant's right to all compensation." Dr. Haghighinia's February 10, 2025 report was submitted with the C&R. The WCJ issued an OACR on March 20, 2025.

On January 14, 2026, the matter came on for a lien trial. Among the numerous issues were, injury AOE/COE; parts of body; lien of Medland Medical, Inc. in the amount of $2,139.82; post termination pursuant to Labor Code section 3600 (a)(10); date of knowledge; no substantial medical/legal or facts to support an AOE/COE injury; reasonableness; Official Medical Fee Schedule; unauthorized and self-procured medical treatment; admissibility of lien claimant's medical report; failure to report an injury among in addition to several other issues.

At trial, defendant's sole witness was risk manager Mr. Robledo. He testified in relevant part as follows:

> Ms. Gonzalez was placed at Keeco Home for a day project along with 23 other associates. The project was a four-hour shift. The job duties for that project were to label boxes. That is the only assignment that Ms. Gonzalez received on September 27, 2024, and it was only a four-hour assignment. Mr. Robledo has a wage statement that shows she only worked four hours on that day.
>
> Her last day of work was September 27, 2024. Her work hours that day were from 3:00 p.m. to 7:00 p.m. There were 23 other employees that were assigned to the same project. She completed her work assignment and did not say that she was available after that day. She never reached out after that day and never reported any injury.
>
> No other employees reported having moved a heavy metal table on September 27, 2024.
> . . .
>
> There was no Risk Manager at the job site or representative.

(Minutes of Hearing/Summary of Evidence, pp. 7-8.)

Defendant brought no other witnesses, including anyone who was present on September 27, 2024, or anyone who supervised applicant.

On February 10, 2026, the WCJ issued the F&O. In her Opinion, she found that Mr. Robledo's testimony was credible.

On February 26, 2026, lien claimant filed a Petition for Reconsideration.

## DISCUSSION
## I.

Preliminarily, we note that former Labor Code section 5909[1] provided that a petition for

[1] Unless otherwise stated, all further statutory references are to the Labor Code.

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 March 12, 2026 and 60 days from the date of transmission is May 11, 2026. This decision is issued by or on May 11, 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 March 12, 2026, and the case was transmitted to the Appeals Board on March 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 March 12, 2026.

**II.**

We now turn to the issue of whether lien claimant met the burden to show injuryn AOE/COE.

When an applicant claims a physical injury, applicant has the initial burden of proving industrial causation by showing the employment was a contributing cause. (*South Coast Framing v. Workers' Comp. Appeals Bd.* (*Clark*) (2015) 61 Cal.4th 291, 297-298, 302; Lab. Code, § 5705.) Applicant must prove by a preponderance of the evidence that an injury occurred AOE/COE. (Lab. Code, §§ 3202.5; 3600(a).)

> The requirement of Labor Code section 3600 is twofold. On the one hand, the injury must occur in the course of the employment. This concept ordinarily refers to the time, place, and circumstances under which the injury occurs. On the other hand, the statute requires that an injury arise out of the employment. It has long been settled that for an injury to arise out of the employment it must occur by reason of a condition or incident of the employment. That is, the employment and the injury must be linked in some causal fashion.
>
> * * *
>
> The statutory proximate cause language [of section 3600] has been held to be less restrictive than that used in tort law, because of the statutory policy set forth in the Labor Code favoring awards of employee benefits. In general, for the purposes of the causation requirement in workers' compensation, it is sufficient if the connection between work and the injury be a contributing cause of the injury.

(*Clark*, *supra*, at pp. 297-298 (internal citations and quotations omitted).)

> Applicant reported to Dr. Haghighina that:
>
> She and five other employees were instructed to move a heavy metal table to a different location. She was positioned with two coworkers on one side, while three others held the opposite side. As she exerted force to lift the table, she experienced sudden pain and discomfort in her lower back, which she attributed to excessive strain.

Dr. Haghighina concluded that:

> Given the patient's current symptoms, physical findings and the nature of her injury, I believe that this patient's current condition and complaints are the direct result of her industrial injury of 09/27/2024.

Applicant admitted to Dr. Haghighina that she had a previous back injury in 2013, and that she was employed in a clerical position from 2017 to January 2024. In her application paperwork with defendant, she reported that her experience was in clerical work, and she reported the same to Dr. Haghighina.

We observe that Mr. Robledo's "credible" testimony supports that applicant's injury occurred while she was employed on September 27, 2024. He confirmed that applicant worked on that day and that she was dispatched with 23 others to an assignment. Yet, Mr. Robledo admitted that he was not present on that day, and it is unclear how Mr. Robledo arrived at his information about what applicant's job assignment was on that day. He did not admit that he ever spoke to applicant. He did not identify any witnesses or anyone who was present on that day, even though that information was clearly within his purview as the employer. With respect to Mr. Robledo's lack of knowledge that employees were asked to move a table, we note that he carefully did not say that he asked if the employees moved a table. Rather, he craftily testified that "No other employees reported having moved a heavy metal table." In fact, defendant produced no witnesses whatsoever that disputed applicant's account of how the injury occurred on September 27, 2024.

Dr. Haghighina's description of the mechanism of injury as reported to him by applicant is consistent with Mr. Robledo's testimony. To the extent that Dr. Haghighina's reporting contained a description of physical activities that applicant engaged in while at work, those activities are not relevant to whether applicant sustained an injury AOE/COE on September 27, 2024. Because a cumulative injury was not claimed, it would be speculative to rely on those details.

To the extent that the WCJ may have been confused by defendant because it raised the issues of "post termination pursuant to Labor Code section 3600 (a)(10) and date of knowledge," there is no evidence that applicant was terminated and no issue of a date of knowledge, since "knowledge" is a term of art that refers to cumulative injuries under section 5412.

WCAB Rule 10803(b) states that: "Upon approval of a Compromise and Release or Stipulations with Request for Award, all medical reports that have been filed as of the date of approval shall be deemed admitted in evidence and part of the record of proceedings." Even though lien claimant's medical report was submitted in support of the C&R, and is deemed admitted, defendant still attempted to mislead the WCJ by raising a specious argument with respect to admissibility. Defendant is reminded that while it is appropriate to raise all relevant defenses, an

scattershot attempt to raise every possible defense wastes the time and resources of the parties and the WCAB.

In the C&R and in the OACR, there is no statement that applicant did not sustain an injury. In Paragraph 9, it cryptically states that: "The parties stipulate that there exists an issue which if resolved in favor of defendants would defeat any right of applicant to any workers' compensation benefits." This statement is meaningless without more, because it is axiomatic that in many cases pending before the WCAB, if an issue exists that is resolved in favor of defendants, applicant loses. Lien claimant's sentiments that defendant paid more than a nuisance sum to resolve applicant's claim, that Dr. Haghighina's report was submitted in support of the C&R, and that the WCJ used the report to determine adequacy of the settlement are not without merit.

Finally, we note that in her Opinion, the WCJ confirmed that a contested claim existed at the time of the reporting. However, as it is unclear whether lien claimant is seeking payment for both medical treatment and medical-legal costs, we defer all other issues.

Accordingly, we grant the Petition for Reconsideration, rescind the decision, and substitute a new Findings that applicant sustained injury AOE/COE and defer all other issues.

For the foregoing reasons,

**IT IS ORDERED** that lien claimant's Petition for Reconsideration of the Findings and Order issued on February 10, 2026 by the WCJ is **GRANTED**.

**IT IS FURTHER ORDERED** as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the Findings and Order issued on February 10, 2026 by the WCJ is **RESCINDED** and the following is **SUBSTITUTED** therefor:

FINDINGS OF FACT

1. BRENDA GONZALEZ while employed on 09-27-2024, as a warehouse worker, in California, by INSOURCE STAFFING SERVICES, INC. LCF FAIRWAY STAFFING SERVICES INC, whose workers' compensation insurance carrier was SUNZ HOLDING, LLC, sustained injury arising out of and occurring in the course of employment to her back.

2. Applicant's primary treating physician was Dr. Haghighinia.

3. Defendant's exhibits B, C, and E are admitted into evidence.

4. All other issues are deferred.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ CRAIG L. SNELLINGS, COMMISSIONER**

**I CONCUR,**

**/s/ JOSÉ H. RAZO, COMMISSIONER**

**/s/ KATHERINE A. ZALEWSKI, CHAIR**

**DATED AND FILED AT SAN FRANCISCO, CALIFORNIA**

**May 11, 2026**

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

**FINE LAW & ASSOCIATES**
**CAROLYN DAVIS**

**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*