

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

MARIA CASTANO SERRANO, *Applicant*

vs.

**MODERN HR INC NOWHERE VENICE LLC, dba EREWHON MARKET;
ZURICH AMERICAN INSURANCE COMPANY, *Defendants***

**Adjudication Numbers: ADJ21973060, ADJ21972572, ADJ21973830, ADJ22134600
Van Nuys District Office**

**OPINION AND ORDER
GRANTING PETITION
FOR RECONSIDERATION**

Defendant seeks reconsideration of the “Joint Order Approving Compromise and Release” (OACR) issued on February 17, 2026, by the workers’ compensation administrative law judge (WCJ).¹ The WCJ found, in pertinent part, that the Compromise and Release (C&R) filed in this matter was adequate, however, the WCJ issued a notice of intent to hold the requested attorney’s fees in trust until further order of the court.

Defendant contends that an order of attorney’s fees as requested in the C&R should issue.

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 and for the reasons discussed below, we will grant defendant’s Petition for Reconsideration. Our order granting the Petition for Reconsideration is not a final order, and we will order that a final decision after reconsideration is deferred pending further review of the merits of the Petition for Reconsideration and further consideration of the entire record in light of the applicable statutory and decisional law. Once a final decision after

¹ The C&R is dated February 13, 2026, however it was served, and thus issued on February 17, 2026.

reconsideration is issued by the Appeals Board, any aggrieved person may timely seek a writ of review pursuant to Labor Code section 5950 et seq.

FACTS

Per the WCJ's Report:

1. On January 27, 2026, the parties filed a Joint Compromise and Release on the above-referenced claims.
2. On February 13, 2026, this WCJ issued an Order Approving Compromise and Release and Notice of Intention.
3. The Notice of Intention read as follows: NOI re: Atty Fees – the court will award attorney's fees of 10% unless objection thereto is filed within 10 days. If there is no objection, AA is to e-file a proposed order releasing the fees. Defendant is to hold the fees in trust pending further court order.
4. On February 19, 2026, Defense filed a Transmittal Letter requesting an Amended Order Approving including the requested attorney's fees.
5. On March 3, 2026, Applicant's counsel filed their Fee Disclosure Statement.
6. On March 9, 2026, Defendant filed this Petition for Reconsideration requesting the attorney's fee of \$3,750.00 to the Applicant's Attorney.

(WCJ's Report, pp. 1-2.)

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.

² All future references are to the Labor Code unless noted.

(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.

(§ 5909.)

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 13, 2026, and 60 days from the date of transmission is Tuesday, May 12, 2026. This decision is issued by or on May 12, 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.

According to the proof of service for the Report and Recommendation by the WCJ, the Report was served on March 13, 2026, and the case was transmitted to the Appeals Board on March 13, 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 13, 2026.

II.

We highlight several legal principles that may be relevant to our review of this matter.

Section 5001 states, in pertinent part, that “[n]o release of liability or compromise agreement is valid unless it is approved by the appeals board or referee.” WCAB Rule 10700 states, in pertinent part:

(b) 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.

(c) Agreements that provide for the payment of less than the full amount of compensation due or to become due and undertake to release the employer from all future liability will be approved only where it appears that a reasonable doubt exists as to the rights of the parties or that approval is in the best interest of the parties.

(Cal. Code Regs., tit. 8, § 10700(b).

Unlike civil courts, the Workers’ Compensation Appeals Board has a duty to ensure that settlements are adequate.

A tort release is effective upon execution, but a compromise and release of workmen’s compensation liability is invalid until approved by the Workmen’s Compensation Appeals Board. (Lab. Code, § 5001; see *Chavez v. Industrial Acc. Com.* (1958) 49 Cal.2d 701, 702 [321 P.2d 449].) . . . This inquiry by the referee should carry out the legislative objective of “protecting workmen who might agree to unfortunate compromises because of economic pressure or lack of competent advice.” (*Chavez v. Industrial Acc. Com.*, *supra*, 49 Cal.2d at p. 702.) These safeguards against improvident releases place a workmen’s compensation release upon a higher plane than a private contractual release; it is a judgment, with “the same force and effect as an award made after a full hearing.” (*Raischell & Cottrell, Inc. v. Workmen’s Comp. App. Bd.* (1967) 249 Cal.App.2d 991, 997 [58 Cal.Rptr. 159].)

(*Johnson v. Workmen’s Comp. Appeals Bd.*, (1970) 2 Cal. 3d 964, 973.)

Pursuant to WCAB Rule 10844:

In establishing a reasonable attorney’s fee, the workers’ compensation judge or arbitrator shall consider the:

- (a) Responsibility assumed by the attorney;
- (b) Care exercised in representing the applicant;
- (c) Time involved; and
- (d) Results obtained.

(Cal. Code Regs., tit. 8, § 10844.)

Upon our initial review, it appears that the present record may not support adequacy of the OACR.

III.

In addition, under our broad grant of authority, our jurisdiction over this matter is continuing.

A grant of reconsideration has the effect of causing “the whole subject matter [to be] reopened for further consideration and determination” (*Great Western Power Co. v. Industrial Acc. Com. (Savercool)* (1923) 191 Cal.724, 729 [10 I.A.C. 322]) and of “[throwing] the entire record open for review.” (*State Comp. Ins. Fund v. Industrial Acc. Com. (George)* (1954) 125 Cal.App.2d 201, 203 [19 Cal.Comp.Cases 98].) Thus, once reconsideration has been granted, the Appeals Board has the full power to make new and different findings on issues presented for determination at the trial level, even with respect to issues not raised in the petition for reconsideration before it. (See Lab. Code, §§ 5907, 5908, 5908.5; see also *Gonzales v. Industrial Acci. Com.* (1958) 50 Cal.2d 360, 364.) “[t]here is no provision in chapter 7, dealing with proceedings for reconsideration and judicial review, limiting the time within which the commission may make its decision on reconsideration, and in the absence of a statutory authority limitation none will be implied.”; see generally Lab. Code, § 5803 [“The WCAB has continuing jurisdiction over its orders, decisions, and awards. . . . At any time, upon notice and after an opportunity to be heard is given to the parties in interest, the appeals board may rescind, alter, or amend any order, decision, or award, good cause appearing therefor.”].)

“The WCAB . . . is a constitutional court; hence, its final decisions are given res judicata effect.” (*Azadigian v. Workers’ Comp. Appeals Bd.* (1992) 7 Cal.App.4th 372, 374 [57 14 Cal.Comp.Cases 391; see *Dow Chemical Co. v. Workmen’s Comp. App. Bd.* (1967) 67 Cal.2d 483, 491 [32 Cal.Comp.Cases 431]; *Dakins v. Board of Pension Commissioners* (1982) 134 Cal.App.3d 374, 381; *Solari v. Atlas-Universal Service, Inc.* (1963) 215 Cal.App.2d 587, 593.) A “final” order has been defined as one that either “determines any substantive right or liability of those involved in the case” (*Rymer v. Hagler* (1989) 211 Cal.App.3d 1171, 1180; *Safeway Stores, Inc. v. Workers’ Comp. Appeals Bd. (Pointer)* (1980) 104 Cal.App.3d 528, 534-535 [45 Cal.Comp.Cases 410]; *Kaiser Foundation Hospitals v. Workers’ Comp. Appeals Bd. (Kramer)* (1978) 82 Cal.App.3d 39, 45 [43 Cal.Comp.Cases 661]), or determines a “threshold” issue that is fundamental to the claim for benefits. Interlocutory procedural or evidentiary decisions, entered in the midst of the workers’

compensation proceedings, are not considered “final” orders. (*Maranian v. Workers’ Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1070, 1075 [65 Cal.Comp.Cases 650].) [“interim orders, which do not decide a threshold issue, such as intermediate procedural or evidentiary decisions, are not ‘final’ ”]; *Rymer, supra*, at p. 1180 [“[t]he term [‘final’] does not include intermediate procedural orders or discovery orders”]; *Kramer, supra*, at p. 45 [“[t]he term [‘final’] does not include intermediate procedural orders”].)

Section 5901 states in relevant part that:

No cause of action arising out of any final order, decision or award made and filed by the appeals board or a workers’ compensation judge shall accrue in any court to any person until and unless the appeals board on its own motion sets aside the final order, decision, or award and removes the proceeding to itself or if the person files a petition for reconsideration, and the reconsideration is granted or denied. ...

Thus, this is not a final decision on the merits of the Petition for Reconsideration, and we will order that issuance of the final decision after reconsideration is deferred. Once a final decision is issued by the Appeals Board, any aggrieved person may timely seek a writ of review pursuant to sections 5950 et seq.

IV.

Accordingly, we grant defendant’s Petition for Reconsideration, and order that a final decision after reconsideration is deferred pending further review of the merits of the Petition for Reconsideration and further consideration of the entire record in light of the applicable statutory and decisional law.

For the foregoing reasons,

IT IS ORDERED that defendant’s Petition for Reconsideration of the Joint Order Approving Compromise and Release issued on February 17, 2026, by the workers’ compensation administrative law judge is **GRANTED**.

IT IS FURTHER ORDERED that a final decision after reconsideration is **DEFERRED** pending further review of the merits of the Petition for Reconsideration and further consideration of the entire record in light of the applicable statutory and decisional law.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ PAUL F. KELLY, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

MAY 12, 2026

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

**MARIA CASTANO SERRANO
TORKAN FARZINPOUR
HEDY GOLSHANI**

EDL/mt

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