

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

ANTONIO HERNANDEZ RODRIGUEZ, *Applicant*

vs.

A. TEICHERT & SON, INC., permissibly self-insured, *Defendant*

**Adjudication Number: ADJ15802678
Lodi District Office**

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

Applicant's attorneys, Alvandi Law Group, seek reconsideration of the Findings and Order (F&O) dated September 4, 2025 wherein the workers' compensation administrative law judge (WCJ) found, in relevant part, good cause to impose sanctions, jointly and severally, against Alvandi Law Group and Gil Alvandi, in the amount of \$250.00 for "misrepresentations" regarding the need for continuance of the May 21, 2024 and June 27, 2024 hearings, and \$500.00 for "failure to appear as Ordered" for the June 27, 2024 trial date, and against Alvandi Law Group and Edgar Diaz, in the amount of \$250.00 for "misrepresentations" regarding the availability of counsel" and \$500.00 for "failure to appear as Ordered" for said trial. (F&O, pp. 1-2.)

Applicant's attorneys contend that the above sanctions are arbitrary, capricious, retaliatory, in excess of the proposed sanctions outlined in the Notice of Intent and Order to Show Cause dated June 27, 2024, and issued without notice and opportunity to be heard. (Petition for Reconsideration (Petition), pp. 4-5, 14.) Applicant's attorneys also allege that the F&O should be rescinded due to "excusable neglect, honest mistake, and inadvertence." (*Id.* at p. 12.)

We have not received an Answer from defendant. The WCJ prepared a Report and Recommendation on Petition for Reconsideration (Report), recommending that the Petition be denied.

We have considered the Petition and the contents of the Report, and we have reviewed the record in this matter. For the reasons discussed below, we will grant applicant's Petition, rescind the F&O, and return the matter to the trial level for further proceedings consistent with this decision.

FACTS

On February 16, 2022, applicant filed an Application for Adjudication claiming that while employed by defendant as a concrete finisher on November 1, 2021, he sustained an injury arising out of and in the course of employment (AOE/COE) to his neck, back, bilateral shoulders, bilateral hips, and right leg, resulting in sleep impairment, stress, anxiety, weight gain, bowel dysfunction, cognitive impairment, sexual dysfunction, headaches, and ear ringing.

Thereafter, the parties proceeded with discovery and retained Dr. Joel Renbaum to serve as the orthopedic Agreed Medical Evaluator (AME).

On March 29, 2024, defendant filed a Declaration of Readiness to Proceed to a mandatory settlement conference (MSC) on the issues of permanent disability and the Employment Development Department (EDD) lien.

The matter was then set for May 21, 2024 MSC at which time the matter was continued to a June 27, 2024 trial date. The day prior, on June 26, 2024, applicant's attorneys requested a continuance, noting the following: "The handling/appearing attorney has left our firm[,] and we unfortunately do not have another attorney to attend the trial with such short notice."

At the June 27, 2024 hearing, applicant's attorneys were not in attendance. Per the Minutes of Hearing (MOH), the trial was ultimately continued, but the WCJ indicated her intent to impose sanctions and order the appearance of applicant's attorneys. The WCJ also issued a separate Notice of Intent and Order to Show Cause (NIT) wherein she stated, as follows:

"After receiving multiple excuses for why an applicant's attorney cannot appear at the duly noticed trial set for 27 June 2024 at 0830, and no attorney appearing on behalf of the applicant, and after having discussion with defense counsel who received a telephone call late the night before trial requesting to have an interpreter present, and the applicant not appearing, the following attorneys are ordered to appear at the next trial date:

- Gil Alvandi
- Edgar Diaz
- Ryan Yousefi"

The WCJ then listed multiple events leading up to the June 27, 2024 trial date, and concluded the NIT by outlining her intent to impose “a sanction of up to \$2,500... joint and severally, against The Alvandi Law Firm, Gil Alvandi, Edgar Diaz, and Ryan Yousefi.” (NIT, June 27, 2024, pp. 2-3.)

On July 3, 2024, defendant filed a Petition for Sanctions alleging that applicant’s attorneys’ “failure to appear or appearing late at a conference or trial” constituted bad faith actions or tactics under Labor Code¹ section 5813(a) and that applicant’s attorneys had established a pattern of conduct under WCAB Rule 10421(b)(1) which allowed defendant to recover reasonable expenses including attorney’s fees and costs. (Petition for Sanctions, p. 2.)

Thereafter, applicant filed a Petition for Removal, dated July 22, 2024, in response to the NIT. A new trial date was also set for July 24, 2024. The trial was attended by all parties and the only issues listed for determination were attorney’s fees and the EDD lien. At the hearing, the new handling attorney, Eddie Choi, provided the following statement on the record:

“...applicant’s counsel admittedly acknowledges the comedy of errors. Alvandi Law Group has apologized to the Court. However, under the code there is an ample case law, such an order or sanctions can be set aside based on excusable neglect, mistake, and inadvertence. Alvandi Law Group has not engaged in a systemic pattern and practice of failing to appear at hearings. Applicant’s counsel has appeared today to hopefully rectify, in part, its errors and again reiterates its request that the Court respectfully and kindly set aside, vacate its Order to Show Cause and not issue sanctions as well as deny Defendant’s Petition in its entirety. Alvandi Law Group insures the Court that the supervising attorney will instruct the junior attorneys and we’ll make sure that this never ever happens again.”

(MOH, July 22, 2024, p. 2.)

With respect to his nonattendance at the June 27, 2024 trial date, the prior handling attorney, Ryan Yousefi, stated as follows:

“I can say that I was ready and willing to appear, and in the afternoon of that day that I was to come to Lodi in advance, I found out that I had Covid, and that’s why I wasn’t feeling well before. In order to not spread Covid and for the safety of everyone involved, I notified the Court that I had Covid and I didn’t want to appear. Yeah, I didn’t want to get anyone sick.”

(*Id.* at p. 3.)

¹ All further statutory references will be to the Labor Code unless otherwise indicated.

On September 5, 2024, the WCJ issued a Findings, Award, and Order (FA&O) wherein he accepted the parties' stipulations regarding temporary and permanent disability, apportionment, permanent and stationary date, future medical care, and attorney's fees and found that applicant had sustained injury AOE/COE to his back. The EDD lien was deferred along with the issue of sanctions.

On September 24, 2024, the Appeals Board issued an Opinion and Order Dismissing the July 22, 2024 Petition for Removal (O&O).

On January 7, 2025, defendant filed a Declaration of Readiness to Proceed to a MSC to address the EDD lien, attorney's fees, and sanctions. The matter was set for hearing on March 19, 2025 and continued to an April 24, 2025 trial date.

At the April 24, 2025 trial, the issues set for determination included attorney fees between applicant's current and former attorneys and sanctions per the NIT. Defendant ultimately withdrew their Petition for Sanctions, and the matter was continued to a further hearing on July 9, 2025. (MOH, April 24, 2025, p. 3.) At the July 9, 2025 hearing, the case was submitted on the sole issue of the June 27, 2024 NIT. (MOH, July 9, 2025, p. 2.)

Thereafter, in a F&O dated September 4, 2025, the WCJ found, in relevant part, good cause to impose sanctions, jointly and severally, against Alvandi Law Group and Gil Alvandi, in the amount of \$250.00 for "misrepresentations" regarding the need for continuance of the May 21, 2024 and June 27, 2024 hearings, and \$500.00 for "failure to appear as Ordered" for the June 27, 2024 trial date, and against Alvandi Law Group and Edgar Diaz, in the amount of \$250.00 for "misrepresentations" regarding the availability of counsel" and \$500.00 for "failure to appear as Ordered" for said trial. (F&O, pp. 1-2.)

It is from this F&O that applicant seeks reconsideration.

DISCUSSION

I.

Preliminarily, former 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 under the Events tab 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 September 26, 2025, and 60 days from the date of transmission is November 25, 2025. This decision was issued by or on November 25, 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 constitute notice of transmission.

Here, according to the proof of service for the Report, it was served on September 26, 2025, and the case was transmitted to the Appeals Board on September 26, 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 September 26, 2025.

II.

Turning now to the merits of the Petition, section 5813 states, in pertinent part that:

- (a) 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. In addition, a workers' compensation referee or the appeals board, in its sole discretion, may order additional sanctions not to exceed two thousand five hundred dollars (\$2,500) to be transmitted to the General Fund.

(Lab. Code, § 5813.)

Further, WCAB Rule 10421(b) provides a comprehensive, non-exhaustive list of actions that could be subject to sanctions. As applicable here, subdivision (b) states that a party may be subject to sanctions where the party has engaged in:

- (1) Failure to appear or appearing late at a conference or trial where a reasonable excuse is not offered or the offending party has demonstrated a pattern of such conduct

(Cal. Code Regs., tit. 8, § 10421(b).)

With respect to the procedural process for sanctions, WCAB Rule 10832 states, in pertinent part, that the Workers' Compensation Appeals Board may issue a NIT for any proper purpose, including sanctioning a party. (Cal. Code Regs., tit. 8, § 10832(a)(3).) Further, subdivision (c) states that if an objection is filed with the time provided, the WCJ, in their discretion, may sustain the objection, issue an order consistent with the NIT together with an opinion on decision, or set the matter for hearing. (Cal. Code Regs., tit. 8 § 10832(c).)

Here, the WCJ issued a NIT on June 27, 2024. In response, applicant's attorneys filed a Petition for Removal, which was dismissed as premature by the Appeals Board as sanctions had not yet been ordered. The issue was then set for hearing on March 19, 2025, and continued to an April 24, 2025 hearing, at which time defendant withdrew their Petition for Sanctions. (MOH, April 24, 2025, p. 3.) Notwithstanding defendant's withdrawal of their Petition for Sanctions, the issue of the NIT was deferred to a July 9, 2025 hearing, after which, the WCJ issued a September 4, 2025 F&O wherein she found good cause to impose sanctions against applicant's attorneys for "misrepresentations" regarding the need for continuance of the May 21, 2024 and June 27, 2024 hearings, "misrepresentations" regarding the "availability of counsel" for the June 27, 2024 trial date, and "failure to appear as Ordered" for said trial. (F&O, pp. 1-2.) In support of her decision, the WCJ referred, in part, to emails between her and applicant's attorneys which are not part of the evidentiary record. With respect to applicant attorney's nonattendance at the June 27, 2024 trial date, the WCJ contends that "the parties were informed that a hybrid trial would not be

allowed[.]” (NOI, p. 2.) The WCJ, however, failed to issue an Order to that effect on the record. As such, the basis for her alleged decision to deny a hybrid trial is unclear.

As explained in *Hamilton v. Lockheed Corporation (Hamilton)* (2001) 66 Cal.Comp.Cases 473, 476 (Appeals Bd. en banc), a decision "must be based on admitted evidence in the record" (*Id.* at p. 478) and must be supported by substantial evidence. (Lab. Code, §§ 5903, 5952, subd. (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. Workers' 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*, at pp. 473, 475.) As required by section 5313 and explained in *Hamilton*, "the WCJ is charged with the responsibility of referring to the evidence in the opinion on decision, and of clearly designating the evidence that forms the basis of the decision." (*Id.* at p. 475.) This "enables the parties, and the Board if reconsideration is sought, to ascertain the basis for the decision, and makes the right of seeking reconsideration more meaningful." (*Id.* at p. 476, citing *Evans v. Workmen's Comp. Appeals Bd.* (1968) 68 Cal.2d 753, 755 [33 Cal.Comp.Cases 350, 351].)

In light of the foregoing, we do not believe there is substantial evidence to justify the WCJ's decision to issue sanctions. We acknowledge, however, that applicant's attorneys' failure to properly communicate with the parties, the court, and to attend the June 27, 2024 hearing, ultimately contributed to unnecessary delays.

As such, we admonish applicant's attorneys, Alvandi Law Group, Gil Alvandi, and Edgar Diaz, for failing to follow the applicable statutes and the Appeals Board's Rules of Practice and Procedure. Future compliance with the WCAB Rules is expected, and failure to do so may subject the offending party to sanctions. (Lab. Code, § 5813; Cal. Code Regs., tit. 8, § 10421.)

Accordingly, we grant applicant's attorneys' Petition, rescind the F&O, and return this matter to the trial level for further proceedings consistent with this decision.

Upon return to the trial level, the WCJ may wish to refer to *Perez v. Chicago Dogs* (2025) 90 Cal.Comp.Cases 830, 838 (Appeals Bd. en banc) with respect to any future requests for electronic testimony.

For the foregoing reasons,

IT IS ORDERED that applicant's Petition for Reconsideration of the Findings and Order dated September 4, 2025, is **GRANTED**.

IT IS FURTHER ORDERED, as the Decision After Reconsideration of the Workers' Compensation Appeals Board, that the Findings and Order dated September 4, 2025, is **RESCINDED**, and the matter is **RETURNED** to the trial level for further proceedings consistent with this opinion.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ JOSEPH V. CAPURRO, COMMISSIONER

KATHERINE WILLIAMS DODD, COMMISSIONER
CONCURRING NOT SIGNING



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

NOVEMBER 21, 2025

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

**ANTONIO HERNANDEZ RODRIGUEZ
ALVANDI LAW GROUP, P.C.
LENAHAN, SLATER, PEARSE & MAJERNIK, LLP**

RL/cs

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