

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

SADIQ NOORI, *Applicant*

vs.

**UNION BANK,
administered by GALLAGHER BASSETT, *Defendants***

**Adjudication Number: ADJ9108437
San Jose District Office**

**OPINION AND ORDER DISMISSING
PETITION FOR RECONSIDERATION**

Applicant in pro per¹ seeks reconsideration of the Order Approving Compromise and Release (OACR) issued on September 19, 2016, wherein the workers' compensation administrative law judge (WCJ) approved the parties' settlement of his claim for \$10,000.00.

The WCJ ordered payment of \$10,000.00 to applicant, less \$1,500.00 payable to his attorney, Scher and Bassett.

Applicant contends that the OACR was procured by fraud and that new evidence has been discovered which could not with reasonable diligence have been discovered previously.

We did not receive an Answer.

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

We have reviewed the Petition for Reconsideration and the contents of the Report. Based upon our review of the record, and for the reasons discussed below, we will dismiss the Petition and recommend that, upon return of this matter to the trial level, the WCJ treat the Petition as one to set aside the OACR.

¹ On August 11, 2025, applicant filed a dismissal of his attorney, Scher and Basset, dated April 25, 2024, without an attached proof of service. (Dismissal, August 13, 2025.) On September 3, 2025, Mr. Scher appeared on behalf of applicant at a Mandatory Settlement Conference which was taken off calendar for lack of jurisdiction pending a decision on the Petition for Reconsideration. (Minutes, September 3, 2025.) It is thus unclear whether Mr. Scher has been put on notice of the dismissal.

FACTUAL BACKGROUND

In the Report, the WCJ states:

Petitioner . . . claims to have sustained injury arising out of and in the course of employment during the period of cumulative trauma from 05/25/2012 to 03/05/2013. The body parts initially alleged were back and psyche. Both parties retained counsel. On 09/19/2016, the parties entered into a Compromise and Release, listing body parts of neck, back, shoulder, upper ext. and psyche.

...

Though the Petition lists all of the grounds mentioned in the statute, there . . . is no discussion or analysis of Petitioner's grounds other than "(See Pleadings)." There are no additional pleadings filed.

(Report, pp. 1-2.)

The Official Address of Record (OAR) in EAMS lists the defendants' addresses as:

UNION BANK Self Insured Employer, 2000 PORTOLA AVE
LIVERMORE CA 94551

GALLAGHER BASSETT SAN DIEGO Claims Administrator, PO BOX
2934 CLINTON IA 52733

WAI CONNOR SAN FRANCISCO Law Firm, 2566 OVERLAND AVE
STE 570 LOS ANGELES CA 90064, SERVICE@WAICONNOR.COM

The Petition for Reconsideration indicates that it was mailed to Union Bank at 1251 Avenue of the Americas, New York, NY 10020, Gallagher Basset at P.O. Box 85013, San Diego, CA 92186, and the Wai Connor Law Firm at 2255 Contra Costa Blvd., Pleasant Hill, CA 94523, on July 17, 2024. (Petition for Reconsideration, p. 3.)

DISCUSSION

I.

Former Labor Code section 5909² 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. (§ 5909.) Effective July 2, 2024, section 5909 was amended to state in relevant part:

² Unless otherwise stated, all further statutory references are to the Labor Code.

(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 22, 2025 and 60 days from the date of transmission is October 21, 2025. This decision is issued by or on October 21, 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 22, 2025, and the case was transmitted to the Appeals Board on August 22, 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 22, 2025.

II.

Preliminarily, we observe that section 5905 requires the party seeking reconsideration to serve the petition upon all adverse parties. (§ 5905.) Failure to file proof of service may constitute grounds for dismissing the petition. (Cal. Code Regs., tit. 8, § 10940.)

Here, the Petition indicates that it was mailed to Union Bank at 1251 Avenue Of The Americas, New York, NY 10020, Gallagher Bassett at P.O. Box 85013, San Diego, CA, 92186, and defendant's attorney Wai Connor at 2255 Contra Costa Blvd., Pleasant Hill, CA 94523. (Petition for Reconsideration, p. 3.) These addresses do not conform with those in the OAR, which lists Union Bank's address as 2000 Portola Ave, Livermore, CA 94551; Gallagher Bassett's as P.O. Box 2934, Clinton, IA 52733, and Wai Connor's as 2566 Overland Ave, Ste. 570, Los Angeles, CA 90064.

Therefore, we admonish applicant to comply with all service requirements applicable to these proceedings. (See § 5905.)

Pursuant to section 5803, "The appeals board has continuing jurisdiction over all its orders, decisions, and awards made and entered under the provisions of [Division 4] ... At any time, upon notice and after the 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." (§ 5803.) This continuing jurisdiction includes authority to set aside an award more than five years after the date of injury based upon good cause shown. (See *Smith v. Workers' Comp. Appeals Bd.* (1985) 168 Cal.App.3d 1160 [50 Cal.Comp.Cases 311].)

A showing of good cause to set aside an award may be based upon fraud, duress, undue influence, mutual mistake of fact, mistake of law, invalidity of execution, incompetency, or minority at the time of execution of the agreement. (See California Workers' Compensation Law (Cont. Ed. Bar 4th Ed.) §§ 16.61 et seq.; see also *Argonaut Ins. Exch. v. Industrial Acc. Com.* (1958) 49 Cal.2d 706 [23 Cal.Comp.Cases 34]; *Smith, supra*; *Carmichael v. Industrial Acc. Com.* (1965) 234 Cal.App.2d 311 [30 Cal.Comp.Cases 169]; *Silva v. Industrial Acc. Com.* (1924) 68 Cal. App. 510; *City of*

Beverly Hills v. Workers' Comp. Appeals Bd. (1997) 62 Cal.Comp.Cases 1691 (writ den.); *Bullocks, Inc. v. Industrial Acc. Com.* (1951) 16 Cal.Comp.Cases 253 (writ den.); *Pac. Indem. Co. v. Industrial Acc. Com.* (1946) 11 Cal.Comp.Cases 117 (writ den.).)

Whether good cause exists is case specific. The circumstances surrounding the execution and approval of the agreement must be assessed. (See § 5702; *County of Sacramento v. Workers' Comp. Appeals Bd. (Weatherall)* (2000) 77 Cal.App.4th 1114, 1121 [65 Cal.Comp.Cases 1]; *Robinson v. Workers' Comp. Appeals Bd.* (1987) 199 Cal.App.3d 784, 790–792 [52 Cal.Comp.Cases 419]; *Huston v. Workers' Comp. Appeals Bd.* (1979) 95 Cal.App.3d 856, 864–867 [44 Cal.Comp.Cases 798].)

Here, applicant alleges that the OACR was procured by fraud and that new evidence has been discovered which could not with reasonable diligence have been discovered previously and thus alleges that good cause exists to set aside the OACR. But since no evidence has been admitted in the record, we are unable to determine the merits of these allegations.

Given the absence of evidence as to whether good cause exists to set aside the OACR, we will dismiss the Petition and return the matter to the trial level. Upon return to the trial level, we recommend the WCJ treat applicant's Petition as one to set aside the OACR and set a hearing to adjudicate its merits. After the WCJ issues a decision, either party may then timely seek reconsideration of the decision.

Accordingly, we will dismiss the Petition and recommend that, upon return of this matter to the trial level, the WCJ treat the Petition as one to set aside the OACR.

For the foregoing reasons,

IT IS ORDERED that the Petition for Reconsideration of the Order Approving Compromise and Release issued on September 19, 2016 is **DISMISSED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ JOSEPH V. CAPURRO, COMMISSIONER

/s/ PAUL KELLY, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

OCTOBER 21, 2025

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

**GALLAGHER BASSETT
SADIQ NOORI
SHER, BASSETT & HAMES
UNION BANK
WAI CONNOR**

SRO/bp

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