

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

RAFAEL SANCHEZ, *Applicant*

vs.

**GLENDORA EMPLOYMENT AGENCY, INC.; STATE COMPENSATION
INSURANCE FUND, *Defendants***

**Adjudication Number: ADJ15462202
Van Nuys District Office**

**OPINION AND ORDER
DENYING PETITION FOR
RECONSIDERATION**

We have considered the allegations of the Petition for Reconsideration and the contents of the Report and the Opinion on Decision of the workers' compensation administrative law judge (WCJ) with respect thereto. Based on our review of the record, and for the reasons stated in the WCJ's Report and the Opinion on Decision, both of which we adopt and incorporate, we will deny reconsideration.

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.

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

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 September 17, 2025 and 60 days from the date of transmission is Sunday, November 16, 2025. The next business day that is 60 days from the date of transmission, is Monday, Monday, November 17, 2025 . (See Cal. Code Regs., tit. 8, § 10600(b).)² This decision is issued by or on Monday, November 17, 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 September 17, 2025, and the case was transmitted to the Appeals Board on September 17, 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 17, 2025.

²WCAB 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.

For the foregoing reasons,

IT IS ORDERED that lien claimant's Petition for Reconsideration is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

I CONCUR,

/s/ JOSEPH V. CAPURRO, COMMISSIONER

/s/ CRAIG L. SNELLINGS, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

November 17, 2025

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

**SPECTRUM MEDICAL GROUP
STATE COMPENSATION INSURANCE FUND**

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*

**This Report and Recommendation was transmitted to the Recon Unit on
September 17, 2025.**

**REPORT AND RECOMMENDATION OF WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE ON PETITION FOR
RECONSIDERATION**

I. INTRODUCTION

The undersigned issued a Findings & Order (F&O) on August 25, 2025 in which it was found that Spectrum Medical Group (Petitioner) did not meet its burden in proving that Rafael Sanchez (Applicant) sustained injury arising out of and occurring in the course of employment during the period September 1, 2018 through September 28, 2021.

Petitioner timely filed a Petition for Reconsideration. Petitioner contends that the WCAB acted without or in excess of its powers, that the evidence does not justify the findings of fact, and that the findings of fact do not support the order, decision, or award. The undersigned recommends that the Petition for Reconsideration be denied.

II. FACTS

Applicant, while employed during the period September 1, 2018 through September 28, 2021 as a laborer at Glendora, California by Glendora Employment Agency, Inc. claims to have sustained injury arising out of and in the course of employment to the head, neck, arms, wrists, left shoulder, and lumbar spine. (Minutes of Hearing at p. 2: 5-8.)

The claim was denied by SCIF (Defendant). (Exhibit 9.) Applicant was evaluated by Primary Treating Physician (PTP) Amin Nia, DC, who found industrial causation for the 9/1/18 – 9/28/21 cumulative trauma (CT), as well as by PQME Brian Bashner MD, who found that the 9/1/18 – 9/28/21 CT was non-industrial in causation. (See Exhibit 1; Exhibit A.)

The parties resolved this case by way of Compromise and Release for the sum of \$11,000.00. This case was set for a lien trial before the undersigned on June 12, 2025 on Petitioner's lien. The sole issue submitted for decision was AOE/COE; all other issues were deferred. (Minutes of Hearing at p. 2: 15-17.)

Petitioner filed a Petition for Reconsideration raising a number of issues that were not raised at trial. No answer from Defendant has been received to date.

III. DISCUSSION

Pursuant to Labor Code section 5903, there are only five grounds on which reconsideration may be sought. Among those grounds, Petitioner contends that the WCAB acted without or in excess of its powers, that the evidence does not justify the findings of fact, and that the findings of fact do not support the order, decision, or award. In doing so, Petitioner raised issues that were not

raised at trial and go well beyond the scope of the lone issue that was tried. The undersigned recommends that the Petition for Reconsideration be denied and that sanctions be imposed against Petitioner for raising numerous issues that not were not at issue at trial.

WHETHER DEFENDANT IS LIABLE FOR PAYMENT OF MEDICAL REPORTS

Petitioner contends that the medical reports of the PTP are “reimbursable” and that they should have been paid by Defendant. Whether or not the medical reports of the PTP should have been paid by Defendant was *not* an issue submitted for decision. The *only* issue submitted for decision was AOE/COE; all other issues were deferred. As such, this contention is irrelevant and should be disregarded by the WCAB.

INJURY AOE/COE

Labor Code sections 3202.5 and 5705 mandate that a lien claimant stands in the shoes of the injured worker and must prove by a preponderance of the evidence all elements necessary to establish the validity of its lien before the burden of proof shifts to the employer. (*Torres v. AJC Sandblasting* (2012) 77 Cal. Comp. Cases 1113, 1115, 1120-1121.) Petitioner failed to meet its burden of establishing a compensable injury in this case.

Based on the medical report of PQME Brian Bashner MD dated 10/11/2022, which is better reasoned and more persuasive than those of PTP Amin Nia DC, as well as the absence of any testimony from Applicant, it was found that Petitioner did not meet its burden in proving that Applicant sustained injury arising out of and occurring in the course of employment during the period September 1, 2018 through September 28, 2021.

While PQME Dr. Brian Bashner reviewed what appeared to be the complete medical file — including the medical reports of PTP Amin Nia DC — the PTP did not review the report of PQME Dr. Bashner, nor did he indicate that he reviewed any other medical reports besides the diagnostic studies also reviewed by Dr. Bashner.

In addition, PTP Amin Nia DC did not reconcile how Applicant was able to work usual and customary duties for Southwest Machine & Plastics Co. via Glendora Employment Agency, Inc. until the date of his termination in September 2021 and then work similar duties at new employer JB Plastics until he was laid off in July 2022. (Exhibit A at p. 11.) Applicant also disclosed to PQME Dr. Bashner that he never reported an injury to Southwest Machine & Plastics, which was not discussed by PTP Amin Nia, DC. (Exhibit A at p. 11.)

Moreover, PTP Amin Nia, DC did not address Applicant’s degenerative arthritic conditions whatsoever in his causation analysis. As such, it was found that the PQME report of Brian Bashner MD dated 10/11/2022 is more substantial than the medical reporting of PTP Amin Nia DC.

Furthermore, and most importantly, despite having the burden of proving injury AOE/COE, Petitioner did not offer any testimony from Applicant on this denied claim to support its allegation of industrial injury.

Consequently, Petitioner failed to meet its burden in proving that Applicant sustained an

industrial injury.

REIMBURSEMENT OF MEDICAL TREATMENT EXPENSES

Petitioner contends that it is entitled to payment for services rendered because the medical treatment it provided to Applicant was reasonable and necessary. Whether or not the medical treatment provided by Petitioner was reasonable and necessary was *not* an issue submitted for decision. Thus, this contention is inappropriate and should be disregarded by the WCAB.

ARGUMENTS RAISED IN RECONSIDERATION NOT RAISED AT TRIAL

Petitioner raised numerous arguments in its Petition for Reconsideration that were not issues submitted for decision. Raising issues in a Petition for Reconsideration that were not raised at trial is grounds for sanctions under Labor Code section 5813. (See *Brodie v. Carmax*, 2013 Cal. Wrk. Comp. P.D. LEXIS 474; *Rodriguez v. Air Coastal Fleet Services*, 2013 Cal. Wrk. Comp. P.D. LEXIS 624.) The undersigned WCJ recommends that Petitioner be sanctioned for raising numerous issues in its Petition for Reconsideration that were not issues decided at trial.

IV. RECOMMENDATION

Based on the foregoing, the undersigned WCJ respectfully recommends that the Petition for Reconsideration be denied. This Report and Recommendation was transmitted to the Recon Unit on September 17, 2025.

DATE:

09/17/2025

Mykil Bachoian
WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE

OPINION ON DECISION

BACKGROUND

Rafael Sanchez (Applicant), while employed during the period September 1, 2018 through September 28, 2021 as a laborer at Glendora, California by Glendora Employment Agency, Inc. claims to have sustained injury arising out of and in the course of employment to the head, neck, arms, wrists, left shoulder, and lumbar spine.

The claim was denied by SCIF. The parties resolved this case by way of Compromise and Release for the sum of \$11,000.00. This case was set for a lien trial before the undersigned on June 12, 2025 on the lien of Spectrum Medical Group (Lien Claimant). At issue is AOE/COE; all other issues are deferred.

INJURY AOE/COE

It is found that Lien Claimant did not meet its burden in proving that Applicant sustained injury arising out of and occurring in the course of employment during the period September 1, 2018 through September 28, 2021.

Labor Code sections 3202.5 and 57052 mandate that a lien claimant stands in the shoes of the injured worker and must prove by a preponderance of the evidence all elements necessary to establish the validity of its lien before the burden of proof shifts to the employer. (*Torres v. AJC Sandblasting* (2012) 77 Cal. Comp. Cases 1113, 1115, 1120-1121.) Lien Claimant failed to meet its burden of establishing a compensable injury in this case.

The undersigned finds that the medical report of PQME Brian Bashner MD dated 10/11/2022 is better reasoned and more persuasive than those of PTP Amin Nia DC.

Furthermore, despite having the burden of proving injury AOE/COE, Lien Claimant failed to offer any testimony from Applicant on this denied claim to support its allegation of industrial injury.

Based on the foregoing, it is found that Applicant did not sustain injury arising out of and occurring in the course of employment during the period September 1, 2018 through September 28, 2021.

DATE: 8/25/2025

Mykil Bachoian
WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE