WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

ROBERT SPRINGER, *Applicant*

vs.

CITY OF LOS ANGELES SHERIFF'S DEPARTMENT; Permissibly Self-Insured, Administered by SEDGWICK CLAIMS MANAGEMENT SERVICES, *Defendants*

Adjudication Number: ADJ13445593
Marina del Rey 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 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, which we adopt and incorporate, and for the reasons discussed below, we will deny reconsideration.

I.

Preliminarily, we note that former Labor Code[1] 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 12, 2025 and 60 days from the date of transmission is Tuesday, November 11, 2025, a legal holiday. The next business day that is 60 days from the date of transmission is Wednesday, November 12, 2025. (See Cal. Code Regs., tit. 8, § 10600(b).)[2] This decision is issued by or on Wednesday, November 12, 2025, so that we have timely acted on the petition as required by Labor Code 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 12, 2025, and the case was transmitted to the Appeals Board on September 12, 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 12, 2025.

II.

In addition to the reasons given by the WCJ in the Report, we note that in *Ramirez v. Workers' Comp. Appeals Bd*. (1970) 10 Cal.App.3d 227, 234 [35 Cal. Comp. Cases 383], the Court said:

[2] WCAB 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.

> Upon notice or knowledge of a claimed industrial injury an employer has both the right and ***duty to investigate the facts in order to determine his liability for workmen's compensation,*** …. [¶] 'The broad purpose of workmen's compensation is to secure an injured worker seasonable cure or relief from industrially caused injuries in order to return him to the work force at the earliest possible time…..'
>
> (*Ramirez, supra,* 10 Cal.App.3d at p. 234, emphasis added.)

Moreover, in *United States Cas. Co. v. Industrial Acc. Com. (Moynahan)* (1954) 122 Cal.App.2d 427, 435 [19 Cal. Comp. Cases 8], the Court said:

> The duty imposed upon an employer who has notice of an injury to an employee ***is not … the passive one of reimbursement but the active one of offering aid in advance and of making whatever investigation is necessary*** to determine the extent of his obligation and the needs of the employee."
>
> (*Moynahan, supra,*122 Cal.App.2d at p. 435 (emphasis added.)

Thus, for the reasons stated in the Report, we agree with the WCJ that the record supports a finding that defendant violated section 5814.3.

For the foregoing reasons,

IT IS ORDERED that the Petition for Reconsideration is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ JOSEPH V. CAPURRO, COMMISSIONER

/s/ PAUL F. KELLY, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

NOVEMBER 10, 2025

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

ROBERT SPRINGER
LEGION LAW GROUP
ALBERT & MACKENZIE

PAG/bp

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

REPORT AND RECOMMENDATION ON PETITION FOR RECONSIDERATION

I.
INTRODUCTION

Applicant Robert Springer, a deputy sheriff for Los Angeles County, who is entitled to a presumption that any heart injury arises out of and in the course employment per Labor Code Section 3212.5, was sent a written denial of heart injury on 9/26/22.

A Trial was completed on the issue of whether Defendant violated Labor Code Section 5814.3 by unreasonably rejecting liability for the heart injury. The judge found in favor of Applicant but required further development of the record on the extent of the monetary penalty which may be as high as five times the amount delayed due to the rejection, up to $50,000.00.

The judge's Findings of Fact and Order were served on 8/12/25. Defendant filed a timely and verified Petition for Reconsideration on 8/29/25 upon the following grounds:

1. The evidence does not justify the findings of fact;
2. The findings of fact do not support the order, decision or award.

Applicant filed an Answer on 9/3/25.

II.
STATEMENT OF FACTS

The judge wrote a lengthy and detailed chronology of events in his decision. The Opinion stated with a discussion of Title 8, CCR 10109's duty to investigate, then told the story of the case as follows:

> *"The judge intends to hold Defendant to their duty to investigate. The only way to check that duty is to go over the case's chronology. It all started with the Application for Adjudication being filed on 7/29/20 that raised a ten-year cumulative trauma injury ending on 7/21/20.*
>
> *Applicant plead injury to his cervical spine, bilateral shoulders, thoracic spine, lumbar spine, bilateral knees, bilateral ankles, hypertension (abbreviated as HTN), gastro, internal, and ears/tinnitus, all caused by repetitive job duties as a deputy sheriff for Los Angeles County. (Exhibit AA)*
>
> *The fact that hypertension was raised should have put Defendant on alert of the possible involvement of Labor Code §3212. They should be ready to act with clue diligence if any additional evidence would come in suggesting heart trouble. Hopefully the adjuster was trained on the expansive definition of what is "heart trouble" under Labor Code 3212 and the case of Muznik v WCAB. (40 CCC 578)*

Defendant timely delayed the claim on 8/7/20. (Exhibit QQ) The decision elate was listed as 10/31/20, which appears to be at or near the 90th day from receipt of the claim.

Defendant attempted to perform some pre-denial discovery. But a deposition was continued to a date that would be one day after the claim was denied.

Apparently during this delay period one of the parties obtained a QME panel. However, the exam with the gastroenterologist would be set for 11/5/20, which was after the estimated denial date.

Defendant would deny the claim on 10/15/20. A denial that occurred with two weeks still left in their 90 days, and one day before Applicant's deposition was taken on 10/16/20.

The judge questions Defendant's investigation efforts under Reg 10109 when they chose to deny the entire claim a day before Applicant's deposition. There was still time so why not at least listen to what Applicant had to say at the deposition before the claim was denied?

Defendant's denial notice stated:

> *". . . the nature, cause and extent of your allegations remain in dispute. Further, this claim is being denied because there is no substantial factual legal or medical evidence to support your allegations of injury. The parties will seek an agreement to have you evaluated by an Agreed Medical Evaluator (AME) or a Panel Qualified Medical Evaluator (PQME) to determine if you sustained an industrially related injury. "*

PQME Rahban in gastroenterology examined the Applicant on 11/5/20. (Exhibit II) After noting that hypertension had been claimed on the injury, he reported in his impressions that Applicant should be "referred to cardiologist for further evaluation and diagnosis. "

The PQME also wrote:

> *"As this advocacy letter is requesting for further evaluations of other conditions that the applicant has had such as hypertension, I have to attract your attention that this issue is out of my specialty and I recommended strongly to be referred to a cardiologist for further examination and recommendation in this regard."*

The PQME found industrial causation of the gastrointestinal claim due to the side effects of medication used for the treatment of work-related injuries. PQME Dr. Rahban 's report was compensable, and Defendant arguably was supposed to comply with Labor Code §4063 and either pay compensation or file a DOR.

However, it was Applicant that on 11/12/20 requested an Expedited Hearing on issues related to discovery and additional PQME.

At the Expedited Hearing on 12/8/20 the parties jointly requested off calendar with an agreement for an additional panel. This would be the orthopedic panel.

But seven weeks later on 1/28/21 Applicant filed a DOR for a Priority Conference. Applicant complained that Gastro PQME Rahban found injury, but Defendant had still not admitted it or authorized treatment. Defendant objected to the DOR since they needed more time to obtain a supplemental PQME report from Dr. Rahban and to obtain VA records.

At the Priority Conference on 3/1/21 the judge denied Applicant's request to set the case for Trial on AOE/COE. The case was continued to allow Defendant to obtain a supplemental report. It is noteworthy that the judge memorialized on the Minutes of Hearing that Applicant had made a request for additional panels in ENT and cardiology. A continuance to a Conference was granted.

A week after the hearing, PQME Dr. Rahban issued the supplemental report that Defendant had been seeking. (Exhibit HH) The abdominal pain was confirmed to be work related. Regarding hypertension, Dr. Rahban wrote as his final impression: "

> *"Hypertension, to be referred for cardiologist's evaluation in terms of relationship to the job and its aggravation, which is out of my specialty."*

At the Status Conference on 4/12/21 the parties once again debated with the judge the need for additional panels in ENT and cardiology. The judge learned the PQME orthopedic exam was set for 5/4/21. The case was continued as Defendant did not consent to these two additional QME Panels and the injury was still denied.

In the judge's mind, Defendant had a duty by this time under Reg. 10909 to obtain medical reporting in ENT and Cardiology as part of a reasonable and good faith investigation. Rather than expediting the process by combining with Applicant on a joint request, discovery was delayed because of Defendant's refusal.

Before the next hearing Applicant filed a Petition for Additional Panels in ENT and Cardiology. At the Hearing on 6/21/21 the parties went off calendar apparently agreeing to make joint requests for these additional panels. The case remained denied in its entirety at this point.

The orthopedic PQME would be Dr. Darakjian and he signed his first report on 7/19/21 after an exam on 6/29/21. (Exhibit ZZ) The report contained only preliminary findings, but they were of industrial causation. The PQME would next report on 9/20/21. (Exhibit AAA) Injury was specifically found by the PQME for the cervical spine, lumbar spine, right shoulder and both knees.

Around this time Defendant was supposed to be arranging with the chosen internal PQME Dr. Grodan to examine the hypertension and cardiology claims. The original exam date of 12/2/21 did not work out for Applicant, and it was rescheduled to 4/7/22.

Defendant makes a point that prior to each exam they sent to the PQME their advocacy letter that included a sentence that authorized Dr. Grodan authority to perform all tests which he believes are necessary. (Exhibit B)

By December 2021, it appears that despite PQME Rahban finding gastro injury, and PQME Darakjian finding orthopedic injury, Defendant had not admitted the claim to those body parts. The judge is aware of Labor Code Section §4063 that would have required Defendant to either pay compensation or file a DOR. They did neither and instead Applicant filed a DOR on AOE/COE and treatment on 12/9/21. A MSC was set for 1/12/22.

Defendant objected to the DOR stating they had further discovery. This included the deposition of Dr. Darakjian, to be followed by that transcript being sent to Dr Rahban for a supplemental report.

Prior to the MSC, PQME Otolaryngologist Dr. Ruder issued his report dated 1/4/22. (Exhibit FF) The PQME found industrial causation involving hearing loss and tinnitus.

Defendant completed the cross-examination of orthopedic PQME Dr. Darakjian on 1/10/22. (Exhibit JJ)

At the MSC on 1/12/22 Defendant asked the judge to memorialize on the Minutes of Hearing that they are now admitting the cervical spine, right shoulder, lumber spine and bilateral knees. Gastro injury was also admitted.

This was formalized in Defendant's partial acceptance dated 1/20/22. Exhibit CC) The hypertension remained denied per the notice.

As previously mentioned, the exam with internal/cardio PQME Dr. Grodan was rescheduled from December 2021 to April 7, 2022 due to no fault by Defendant.

Defendant 's 2/25/22 letter to Dr. Grodan is six pages long and states at the bottom of page five that "This letter constitutes your authority to perform all tests which you believe are necessary. However, if hospitalization is necessary, we would require that you first obtain our consent."

The MSC on 1/12/22 was continued to 3/23/22 at which point the judge memorialized on the Minutes of Hearing that Defendant was accepting the left foot, left shoulder, hearing loss and tinnitus as body parts. Discovery on the

hypertension/cardio was still ongoing with PQME Dr. Grodan 's exam set for 4/7/22.

PQME Grodan performed his evaluation on 4/7/22. (Exhibit YY) His report apparently was received by the parties by 5/ 17/22. (Exhibit E) As part of the exam he performed an echocardiogram (Exhibit F) and an x-ray. (Exhibit G)

PQME Grodan found hypertension was out of control. He wrote in his discussion:

> *"Therefore, I have to conclude that even if not presumptive with a normal echocardiogram his hypertensive disease evolved in the course of his employment as a consequence of occupational stress with a superimposed orthopedic injury causing pain and discomfort - therefore the hypertensive disease is considered to be entirely industrial."*

He further wrote:

> *"Considering that his lipid profile is abnormal with a high risk of coronary disease Mr. Springer should have a noninvasive cardiac CT angiogram to determine whether he has coronary disease or not and furthermore it is necessary to obtain accurate measurements for his cardiac chambers and left ventricular wall in order to confirm accuracy of the rating within the table 4-2. Should he have coronary disease that will be presumptive and addressed according to page 36, table 3-6a."*

The judge notes that the sentence above concerning the non-invasive cardiac CT angiogram was underlined by the PQME in a likely effort to highlight its importance. (page 18)

Defendant's duty to investigate was certainly triggered with this report and testing request. Defendant should have immediately authorized and arranged for the angiogram but inexplicably did not.

The judge can imagine Applicant attorney reading this report in May 2022 expecting due diligence from Defendant to schedule the angiogram. A week went by without notice so Applicant attorney wrote Defendant on 5/25/22 demanding they accept the hypertension with immediate authorization and arrangement of the noninvasive CT angiogram. (Duplicate Exhibits 6 and EE)

Without a response for a whole month, Applicant emailed Defendant and attached the prior letter. This was on 6/30/22 and asked:

> *"Following up on our letter attached in regards to acceptance, notices for HTN and authorization for noninvasive CT angiogram." (Exhibit 7)*

Apparently, even after one more effort, Applicant attorney's attempts to elicit a response from Defendant were met with radio silence. The County of Los Angeles has never explained why no one responded to the doctor's request, attorney's letter and email, and why they did not simply arrange for the test once put on notice so many times. The judge could not ignore the fact that no witness on behalf of Sedgwick attempted to explain what happened.

On 8/5/22 Applicant filed a DOR on AOE/COE noting that Defendant has not accepted the industrial hypertension, and that Defendant has still not arranged for the CT angiogram requested by PQME Grodan.

On or about 8/23/22 Mr. Springer unfortunately had a heart attack and treated at Henry Mayo Newhall Hospital. (Exhibit 8)

On 8/29/22 Defendant issued another partial acceptance noting that hypertensive disease was now an accepted body part. (Duplicative Exhibits MM and 2)

On 9/1/22 Applicant amended his claim to include the heart, a body part presumed compensable per Labor Code §3212.5. The Application was mailed on 9/1/22 but Defendant contends they did not receive it until 9/12/22.

Defendant argued in its trial brief that no claim of injury as defined in Sections 3212 was raised until the amended Application on 9/1/22. However, the judge feels Defendant should have been alerted to a potential heart related claim upon receipt of Dr. Grodan 's 4/7/22 report that was received by 5/17/22.

Thus, the duty to investigate started no later than 5/17/22. Regulation 10109 covers this situation even if the body part is not formally raised. A material part of that duty was to authorize the angiogram needed by the PQME.

The MSC requested by Applicant was held on 9/14/22. The case went off calendar with dispute resolved by agreement.

Defendant then issued another partial acceptance on 9/14/22 but it did not include the heart. (Duplicative Exhibits PP and 1)

On 9/26/22 Defendant issued another partial denial. This document is noteworthy in that liability for the heart was specifically denied due to "no substantial factual legal or medical evidence to support your allegations of injury. " (Exhibit K)

In terms of Labor Code §5814.3 this denial on 9/26/22 is the clearest proof that Defendant rejected liability of the heart claim. Liability was rejected due to no substantial factual, legal or medical evidence. But was that really fair to state at that moment in time?

At the time of the 9/26/22 denial, the heart claim had only been formally raised earlier in the month by amended Application, but clearly there were concerns in the case prior to that as discussed above.

Defendant argued in its brief that this amended Application that added the heart was not received until 9/12/22. That would mean Defendant decided to issue a written denial of' the heart just 14 days after they learned of the claim.

The judge is unaware of any 90-day timeline, or any timeline to investigate at this point. The timeline is whatever a reasonable investigation should take assuming one acts with due diligence.

But the denial on 9/26/22 of the heart occurred in the middle of the investigation process of the PQME hired to resolve the issue of whether there was an injury to the heart.

An investigation delayed by Defendant failing to timely arrange and authorize the angiogram needed by Dr. Grodan to determine if there was a heart injury.

Yet Defendant still tries to divert attention to their omission by arguing they assumed the PQME would arrange it himself because Defendant had included a sentence in its letter to the PQME that he was authorized to perform testing. Defendant also argued that Applicant could have arranged for the test, and that perhaps Applicant could have filed a DOR on the issue at an earlier time.

While Defendant spent time in its brief trying to convince the judge that Applicant attorney or Dr. Grodan is somehow at fault here for delaying the angiogram, Defendant never provided any evidence, or testimony from the claims examiner, why they seemingly ignored multiple requests to set up the test. The judge finds Defendant's blame-shifting and finger pointing to be without merit.

Defendant does admit oversight with regards to the angiogram. The reason why Dr. Grodan did not schedule was explained in his report. The facility did not accept his authorization. The test required preauthorization from the claims examiner specifying the facility in order to schedule. With the multiple contacts made by Applicant attorney to Defendant about the angiogram, it seems more than just oversight.

Denying the heart claim on 9/26/22 based on the lack of "factual, legal or medical evidence, " despite the early findings of Dr. Grodan, seems unreasonable by an entity who had a duty to investigate imposed by law under Reg. 10109.

The judge must conclude Defendant egregiously ignored its duty to investigate under Regulation 10109 with regards to this CT angiogram test. By delaying this

test, Defendant took away from Applicant the key piece of evidence he needed to support a heart claim. This is all within the context where a presumption is supposed to operate to reduce or eliminate the injured workers burden of proof.

Perhaps in anticipation of Dr. Grodan 's upcoming PQME reevaluation, his office faxed notice to parties on 9/29/22 that the physician still needed the angiogram in time for the reevaluation on 12/1/22. (Exhibit WW) The note suggested the test could be arranged at Westside Medical Imaging but "direct authorization necessary for provider."

Dr. Grodan 's supplemental report dated 12/1/22 then came out. (Exhibit LL) The PQME wrote at page 7:

> *"I cannot reach a conclusion at this time in regards to rating as an EKG and a treadmill would not provide the same information as a cardiac CT angiogram. I noted in my report previously in the April 07, 2022 evaluation that he should have a noninvasive cardiac CT angiogram. In retrospect, if that study would have been performed there is a probability that the infarction may have been prevented by a regular angiogram, angioplasty and stent insertion.*
>
> ---
> ---
>
> *In summary, I will provide more detailed opinion after I complete the review of his medical records. Mr. Springer being a correctional officer is still within the timeframe of compensability under the Labor Code Section 3212 for heart trouble.* ***Therefore, his coronary disease is industrial and not apportionable according to SB-899 and treatment will be on industrial basis.*** *He will require follow up with a Board Certified Internist/Cardiologist at intervals determined by his clinical status. He requires medications to control his blood pressure as well as cardiac symptomatology, maintenance of cholesterol and lipid suppression by diet and statin, and at least on annual basis an exercise study, echocardiogram, and laboratory profile periodically to determine his electrolytes, renal function, and lipid panel. Medications are selected by his medical treating expert based on the clinical need. "(emphasis added by judge)*

Defendant claims they received Dr. Grodan 's 12/1/22 report on 12/27/22. But it did not cause Defendant to admit the heart injury, even despite the presumption. The judge agrees with Applicant that this report was sufficient in a presumption situation for Defendant to admit the heart related injury. Nonetheless, Defendant at this point was still rejecting liability for the heart claiming a records review was

needed by Dr. Grodan to see if the heart injury could somehow be fully caused by past non-industrial injuries and/or conditions.

Dr. Grodan supplemental report dated 2/3/23 (Exhibit TT and VV) was a records review and appears to suggest that Defendant had still not arranged for the angiogram. The PQME wrote that the test requires a preauthorization from claims examiner specifying the facility in order to schedule. "They do not accept my authorization."

On 2/8/23 Applicant filed a DOR stating Defendant has not authorized nor scheduled diagnostic studies needed by the QME. However, Applicant later wrote the judge on 3/6/23 stating that Defendant had finally authorized the diagnostic study. Defendant apparently did not authorize this test until 3/2/23. (Exhibit UU)

Also, on 3/2/23, Defendant issued a corrected partial acceptance that now includes hypertensive disease and coronary disease. (Exhibit KK and NN) While the heart is not specifically accepted, the coronary disease being included is probably the equivalent.

Defendant suggested in its brief that "the claim for 'heart' injury was timely denied while the causation issue was submitted to the internal PQME Dr. Grodan, and timely accepted once Dr. Grae/an reviewed the relevant records and issued his February 3, 2023 report as the defendant timely accepted coronary artery disease 16 days later by letter dated March 2, 2023." (Exhibit N)

However, as stated above, Defendant should have admitted the coronary/heart once receiving Dr. Grodan 's 12/1/22 report. The judge did not see good cause in delaying that decision for the supplemental report that came out after 2/2/23.

Dr. Grodan issued another report dated 6/2/23. (Exhibit SS) The PQME again confirms his findings of industrially caused cardiac and hypertensive disability.

On 12/28/23 Defendant issued another acceptance notice where this time "hypertensive disease, heart, and coronary disease" are specifically admitted as body parts. (Exhibit 00) "

Applicant's remedy to the denial of the heart was to file a Petition raising Labor Code 5814.3 penalties claiming Defendant unreasonably rejected liability. Applicant also filed a Petition for Serious and Willful Misconduct related to the delayed Angiogram testing.

These issues eventually went to Trial. The judge's decision came after ten scheduled Trial elates, two of which went on the record. There was witness testimony and 48 trial exhibits. Several continuances were caused by the parties' inability to stipulate to facts representing the case's most important events. The judge ultimately received each parties' separate version of the facts. Nonetheless, the judge still

spent hours creating his own timeline, which seemed to be the only way to understand the totality of the circumstances needed to decide the issue.

The judge found in favor of Applicant on the Labor Code 5814.3 penalty and in favor of Defendant on the Serious and Willful Misconduct.

The judge also found Defendant may be subject to sanctions and attorney fees under Labor Code Section 5813.

Defendant now appeals the judge's Findings of Fact that "The County of Los Angeles unreasonably rejected liability/or the heart in violation of 'Labor Code Section 5814.3."

The amount of the penalty required further development of the record, and a Status Conference is currently set on 10/13/25.

III.

DISCUSSION

The Statement of Facts provided by Petitioner in their appeal downplays their omissions and shortcomings in their duty to investigate as noted by the judge in his decision. Defendant likes to describe their delays in authorizing an important Angiogram test to be simple "oversight," while continuing to attempt to shift blame on both Applicant, his attorney and the PQME.

Petitioner violates Section 10945 when it ignores the judge's multiple references to Title 8, CCR's 10109 duty of good faith investigation. These words are not found anywhere in Defendant's pleading despite the judge focusing so much on it for his decision. It seems much of the judge's reasoning for his decision is ignored by Petitioner.

The judge's Opinion on Decision began with a discussion of Regulation Section 10109. It stated:

> *"The core of Applicant's argument is that Defendant did not comply with its duty to investigate as set forth in Title 8, CCR Section 10109. It states:*
>
> *(a) To comply with the time requirements of" the Labor Code and the Administrative Director's regulations, a claims administrator must conduct a reasonable and timely investigation upon receiving notice or knowledge of an injury or claim for a workers' compensation benefit.*
>
> *(b) A reasonable investigation must attempt to obtain the information needed to determine and timely provide each benefit, if any, which may be due the employee.*
>
> *(1) The administrator may not restrict its investigation to preparing objections or defenses to a claim, but must fully and fairly gather the pertinent information, whether that information requires or excuses benefit payment. The investigation must supply the information needed to provide timely benefits and to document for*

audit the administrator's basis for its claims decisions. The claimant's burden of proof before the Appeal Board does not excuse the administrator's duty to investigate the claim.

(2) The claims administrator may not restrict its investigation to the specific benefit claimed if the nature of the claim suggests that other benefits might also be due.

(c) The duty to investigate requires further investigation if the claims administrator receives later information, not covered in an earlier investigation, which might affect benefits due.

(d) The claims administrator must document in its claim file the investigatory acts undertaken and the information obtained as a result of the investigation. This documentation shall be retained in the claim file and available for audit review.

(e) Insurers; self insured employers and third-party administrators shall deal fairly and in good faith with all claimants, including lien claimants.

The judge also stated in his decision as follows:

"The judge is asked whether Defendant unreasonably rejected liability for the heart. The answer is yes. It was unreasonable for Defendant to not timely authorize the CT angiogram. It was unreasonable for Defendant to issue a written denial of the heart in the middle of the PQME 's investigation. It was also unreasonable for Defendant to perform an overall underwhelming investigation despite their duty to do so under the law.

Dr. Grodan provided sufficient in information to Defendant that should have put them on notice that the heart, and thus the presumption, might be applicable. They should have authorized the angiogram immediately instead of looking for ways to deny the claim by concluding there was no substantial medical evidence.

Defendant's actions would be unreasonable under normal cases without a presumption. But when you add the presumption for heart trouble, the expansive definition of heart related injuries under the Muznik case, the issue with the angiogram, and the perceived lack of due diligence to investigate and timely admit body parts, it seemed that Defendant acted unreasonably when they rejected liability for the heart.

Development of the record will be needed to determine the amount of the penalty as the judge is not yet convinced the cost of the treatment at Henry Mayo Newhall Hospital is appropriate measure for which to calculate 'five times the amount of benefits unreasonably delayed due to the rejection of liability. " Perhaps the parties could informally resolve this issue."

The Petition for Reconsideration is not the model of clarity. The judge will do his best to discuss its basic arguments.

It is noted Defendant spends a significant amount of time discussing events and actions that occurred only after the heart injury was formally denied. However, those events are less relevant than events leading up to the denial. The focus is why Defendant unreasonably denied in writing and rejected liability for the heart at that moment in time.

Defendant argues they timely denied the heart and then accepted it once they were personally satisfied with the medical evidence. Defendant was not satisfied until they received the 2/3/23 report of PQME Dr. Grodan, while the judge felt Defendant had sufficient information to admit the heart after receiving the PQME's 12/1/22 report.

Petitioner claimed at page 13:

> *"However, in Dr. Grodan 's December 1, 2022 report (Exhibit LL) he stated he needed more time to review 474 pages of relevant medical records submitted to him, including but not limited to the subpoenaed records from Henry Mayo Newhall Memorial Hospital where the applicant was treated for his heart attack, and until he reviewed the records causation was still at issue."*

The judge disagrees with Defendant that Dr. Grodan showed any reservations about his industrial causation findings until he reviewed those records. The PQME wrote at page 7 of the 12/1/22 report:

> *"In summary, I will provide more detailed opinion after I complete the review of his medical records. Mr. Springer being a correctional officer is still within the timeframe of compensability under the Labor Code Section 3212 for heart trouble. Therefore, his coronary disease is industrial and not apportionable according to SB-899 and treatment will be on industrial basis. He will require followup with a Board Certified Internist/Cardiologist at intervals determined by his clinical status. He requires medications to control his blood pressure as well as cardiac symptomatology, maintenance of cholesterol and lipid suppression by diet and statin, and at least on annual basis an exercise study, echocardiogram, and laboratory profile periodically to determine his electrolytes, renal function, and lipid panel. Medications are selected by his medical treating expert based on the clinical need. "*

Dr. Grodan at page one of this report refers to 474 pages of records that were not reviewed but states he will issue a supplemental report because he was "not able to review such volume within the 30 days therefore I will have to submit a supplemental report."

The judge believes there is nothing in the PQME's 12/1/22 medical report that would have warranted Defendant's bold interpretation that *"until he reviewed the records causation was still at issue.*"

Defendant also provides no plausible scenario where these records had the capability of changing the PQME's mind to the point of zero causation in a presumption case.

The judge took another look at Dr. Grodan's 2/3/23 report. (Exhibit TT) It is relevant that at page 7 the PQME noted about the records he reviewed that "The majority of the file was orthopedic which did not impact my conclusions."

Please recall the PQME mentioned in the 12/1/22 report that was not able to review such a volume of records in time. Perhaps if Defendant had just sent the Henry Mayo records and not bogged down the PQME with these other records, there would not have been need for further delay.

Moreover, these actions by Defendant were after they had already unreasonably rejected liability for the heart. Thus they are less relevant on the Labor Code Section 5814.3 penalty than their actions leading up to that denial.

To summarize Defendant's actions prior to the denial of the heart, please recall that hypertension was an issue from the start. This alone should have cause concern to Defendant that the heart, a presumed-injured body part, might be involved. This is where Dcfendm1t' s duty to investigate arguably started concerning the heart. Defendant was again reminded of their duty when the PQME in gastroenterology Dr. Rahban suggested Applicant be referred to a cardiologist. (11/5/20 report; Exhibit II)

The PQME Internist Dr. Grodan was selected to investigate the hypertension, but the physician's initial reporting raised concerns for the heart. Dr. Grodan wanted an angiogram to help diagnosis the heart. (4/7/22 report, Exhibit YY)

Defendant at that moment clearly had a good faith duty to further investigate the heart. Part of that duty was to authorize an important diagnostic test that Dr. Grodan needed to determine industrial causation of the heart. This was a non-invasive, cardiac CT angiogram.

It was Defendant's repeated failure or refusal to authorize and schedule the angiogram that caused the judge to describe Defendant as having "egregiously ignored its duty to investigate. "

It was about this time that Applicant Robert Springer had a heart attack.

The judge cannot ignore the repercussions of Defendant having failed to authorize this test. PQME Grodan basically found that had the test been performed timely, "*there is a probability that the infarction may have been prevented by a regular angiogram, angioplasty and stent insertion.* " (Exhibit LL)

Applicant and his attorney clearly were not happy about this. Defendant simply admits its "oversight" but has also aggressively tried to shift the blame to multiple others when the judge firmly puts the blame solely on the claims administrator.

Defendant wants to blame Dr. Grodan after claiming the PQME was given authorization to perform all tests. However, the PQME wrote that the test requires a preauthorization from claims examiner specifying the facility in order to schedule. "*They do not accept my authorization*." (Exhibits TT and VV)

Defendant knew Applicant had sustained a heart attack, knew Dr. Grodan was hired as the PQME to investigate if the heart was industrial, and knew Dr. Grodan needed the angiogram to determine if the heart was industrial. They knew the angiogram was not yet authorized and should have known it was their fault that it had not yet been performed. Finally, they knew Applicant had just amended the claim to include the heart.

Then Defendant, with the knowledge cited above, decided to issue a written denial of the heart two weeks after they claimed they first knew the heart was formally raised as a body part on an amended Application.

The judge determined it was completely unreasonable for Defendant to deny the heart under these circumstances. This is especially true when the judge is unaware of any actual deadline to issue a denial.

This is all being considered within the framework of an employee who is entitled to a presumption of heart injury.

Defendant's Petition is lengthy, and unnecessarily repetitive. Multiple paragraphs were spent discussing Defendant's belief that no benefits were delayed so there would be a zero Labor Code 5814.3 penalty. However, that issue was not finally decided by the judge. A hearing is set to go over development of the record.

Defendant continues to try to unreasonably blame others, including applicant's attorney and even Dr. Grodan, for the County's own failures in authorizing the important angiogram needed by the PQME to determine if there was a heart injury. It's unreasonable for Defendant to continue to assert that simply stating on an advocacy letter that all testing is authorized is satisfaction of their duty to investigate.

Clearly this type of pre-authorization did not work for the angiogram. Defendant was put on notice multiple times of this problem and did nothing. To this clay Defendant has not explained what happened, or who was at fault.

What is deemed oversight by Defendant was a life changing circumstance for Applicant Robert Springer, who was deprived of the ability to learn of his heart condition before he ended up having a heart attack. An attack that the PQME felt could have been prevented had Defendant authorized the angiogram timely.

Defendant mentions several times in its appeal that they issued a timely denial of the heart on 9/26/22. However, Petitioner ignores the judge's opinion that this denial issued right in the middle of the its own investigation into whether the heart was industrial or not. This was a key event in determining unreasonable rejection of liability under Labor Code Section 5814.3. The judge's decision stated:

> *"In terms of Labor Code §5814.3 this denial on 9/26/22 is the clearest proof that Defendant rejected liability of the heart claim. Liability was rejected due to no substantial factual, legal or medical evidence. But was that really fair to state at that moment in time?*
>
> *Defendant argued in its brief that this amended Application that added the heart was not received until 9/12/22. That would mean Defendant decided to issue a written denial of the heart just 14 days after they learned of the claim.*
>
> *The judge is unaware of any 90-day timeline, or any timeline to investigate at this point. The timeline is whatever a reasonable investigation should take assuming one acts with due diligence.*
>
> *But the denial on 9/26/22 of the heart occurred in the middle of the investigation process of the PQME hired to resolve the issue of whether there was an injury to the heart.*
> *An investigation delayed by Defendant failing to timely arrange and authorize the angiogram needed by Dr. Grodan to determine if there was a heart injury. "*

Petitioner attempts to address this somewhat at paragraph 24, page 10 of their reconsideration pleading. They wrote:

> *"Regarding the defendant's September 26, 2022 denial of the heart claim, Judge Ward's Findings and Order, Opinion on Decision, at page 8 paragraph 11, asks: 'But was that [the denial] really fair to state at that moment in time. ' Defendant asserts that it was fair and reasonable because the cardiology PQME, Dr. Grodan had not yet issued his December 1, 2022 report finding industrial causation for the coronary artery disease, and because Dr. Grodan had not yet issued his February 3, 2023 report yet wherein he reviewed 474 pages of medical records, which are discussed below."*

The problem for the judge is that Defendant never addresses why they felt they needed to issue any denial of the heart at that moment in the case. They seemed to be in a rush to deny the heart for no apparent reason and now seemingly in bad faith. At that point in the case, there was no 90-day limit or any limit other than a reasonable investigation. The parties were investigating the heart and the PQME Dr. Grodan was part of that investigation, which was delayed by Defendant's own error in failing to authorize that angiogram.

Defendant denied the heart specifically because *"There is no substantial factual legal or medical evidence to support your allegations of injury."* Using Defendant's own timeline, this was about 14 days after learning the heart was formally raised. There simply was no good cause to deny the heart at that moment in time given Dr. Grodan was in the middle of reporting on that body part.

IV.
CONCLUSION

It is respectfully recommended that Defendant's Petition for Reconsideration be denied.

SIGNED AND TRANSMITTED TO WCAB ON

SEPTEMBER 12, 2025

JEFFREY R. WARD
Workers' Compensation Judge