

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

YOLANDA SABLAN, *Applicant*

vs.

**COUNTY OF LOS ANGELES;
ACCLAMATION SANTA CLARITA, *Defendants***

Real Parties in Interest:

***Marisa Schermbeck Nelson; South Bay Surgical Spine;
South Bay Surgical and Spine Institute; Accounts Receivable LTD;
Accounts Receivable Acquisitions; and Frontline Medical Associates, Inc.***

**Adjudication Numbers: SAU2545427; ADJ2545427 (LBO 0358993)
Anaheim District Office**

**OPINION AND ORDER
DENYING PETITION FOR
RECONSIDERATION**

State Compensation Insurance Fund (SCIF) seeks reconsideration of the Order Appointing New Joint Liaison Counsel (Order) issued by a workers' compensation administrative law judge (WCJ) on June 3, 2025.¹ The WCJ ordered that SCIF and Travelers Property Casualty Company of America (Travelers) be appointed the new "Joint Liaison Counsel" in this consolidated proceeding and that together, counsel for SCIF and Travelers are to coordinate and conduct all discovery, serve all minutes of hearing, communicate with all other defendants regarding discovery plans as set forth in detail in California Rule of Court section 3.506 (Cal. Rule of Court, § 3.506) and in the Order.

SCIF contends that it has the least number of viable liens and therefore should not be ordered to take on the role of liaison counsel. Further, SCIF contends that the Order conflicts with

¹ The Order is a final order that determines the threshold issue of whether the Appeals Board has jurisdiction to order SCIF to act as liaison counsel. (See *Maranian v. Workers' Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1080-1081 ("Maranian").) Therefore, **just as we did with SCIF's prior petition for removal on the same issue**, we treat the petition filed by SCIF as a petition for reconsideration of a final order. (Opinion and Order Granting Petition for Reconsideration and Decision after Reconsideration, November 18, 2024, p. 1, fn. 1; see Lab. Code, §§ 5900, 5901, 5950; *Hikida v. Workers' Comp. Appeals Bd.* (2017) 12 Cal.App.5th 1249, 1255; *Maranian, supra*, 81 Cal.App.4th at p. 1074.)

Article 14, section 4 of the California Constitution (Cal.Const., Art. XIV § 4) and Insurance Code sections 11770 and 11774 (Ins. Code, §§ 11770, 11774), in that SCIF was purposefully created only to defend against their own claims and therefore has no ability to conduct discovery on behalf of other carriers; does not have the constitutional or statutory authority to earn fees on behalf of other carriers; and, does not bill its clients and therefore lacks the ability to provide periodic billing to the other carriers for its work as a Joint Liaison Counsel.

There was no answer filed by any other defendant or any of the real parties in interest. The WCJ filed a Report and Recommendation on Petition for Removal (Report), recommending that SCIF's petition be denied.

SCIF filed a Request to File Supplemental Petition for Removal and Supplemental Petition for Removal (Supplemental Petition), which we grant.²

We have reviewed the record in this consolidated matter, the allegations in the Petition for Removal and the Supplemental Petition, and the contents of the Report. Based on our review of the record and for the reasons set forth in the Report and below, we deny reconsideration.

I.

Former Labor Code³ 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, Labor Code 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 SCIF attempts to introduce evidence into the record regarding the merits of the liens at issue in these consolidated discovery proceedings, which we cannot admit into evidence and cannot review as it would violate the due process rights of all other parties in these consolidated proceedings, i.e., the right to notice and a fair hearing. (*Gangwish v. Workers' Comp. Appeals Bd.* (2001) 89 Cal.App.4th 1284, 1295 [66 Cal.Comp.Cases 584]; *Rucker v. Workers' Comp. Appeals Bd.* (2000) 82 Cal.App.4th 151, 157-158 [65 Cal.Comp.Cases 805].)

³ All further references are to the Labor Code unless otherwise noted.

(2) For purposes of paragraph (1), service of the accompanying report, pursuant to subdivision (b) of Section 5900, shall constitute providing notice.

Under Labor Code 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 June 24, 2025 and 60 days from the date of transmission is Saturday, August 23, 2025. The next business day that is 60 days from the date of transmission is Monday, August 25, 2025. (See Cal. Code Regs., tit. 8, § 10600(b).)⁴ This decision is issued by or on Monday, August 25, 2025, so that we have timely acted on the petition as required by Labor Code section 5909(a).

Labor Code 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. Labor Code 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 June 24, 2025, and the case was transmitted to the Appeals Board on June 24, 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 Labor Code section 5909(b)(1) because service of the Report in compliance with Labor Code section 5909(b)(2) provided them with actual notice as to the commencement of the 60-day period on June 24, 2025.

⁴ “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.” (Cal. Code Regs., tit. 8, § 10600(b).)

II.

The Order named SCIF and Travelers Joint Liaison Counsel for this consolidated proceeding “[b]ased upon the carriers and TPAs remaining and the exposure on the liens” given that “SCIF and Travelers have the most exposure by dollar value compared to the next defendant as to exposure...” (Order, p. 1.) SCIF first argues that the WCJ is wrong because it is only involved in 3 of the liens at issue in these proceedings, and even those 3 liens are not viable for various legal and factual reasons. (Petition for Removal, at pp. 2-3.) SCIF provides no reference or citation to evidence to support this conclusion, which is contrary to the information provided by the Anti-Fraud Unit which identified that SCIF was involved in 65 remaining “ADJS/Liens” with a “Total Amount Requested” on those remaining 65 liens of \$3,597,120.9. (See Order, Exh. #4.) The WCJ recommends that SCIF’s petition be denied because it fails to set forth specific reference to evidence to support its argument. (Report, pp. 4-5; see Cal. Code Regs., tit. 8, § 10945.) We concur entirely and remind SCIF, an experienced and sophisticated workers’ compensation litigant, that petitions for reconsideration (or removal) can be denied or dismissed when unsupported by specific references to the record. (Cal. Code Regs., tit. 8, § 10972.)

More significantly, SCIF appears to be putting the cart before the horse by attempting to litigate the merits of the liens – which are not at issue in this consolidated proceeding. Contrary to the arguments set forth in the Supplemental Pleading,⁵ this matter is *not* a proceeding consolidated under section 139.21; rather, **this matter is consolidated under WCAB Rule 10396** (Cal. Code Regs., tit. 8, § 10396). (Order Dismissing Frontline Liens from Consolidation in SAU2545472 and Order Consolidating Frontline Liens Pursuant to Reg. 10396, Designation of SAU7682215 as Master File, Order Staying Liens, and Notice of Hearing, April 4, 2024 (Order Consolidating) [SCIF did not seek reconsideration or removal of the Order Consolidating].) **The common and complex questions of law and fact in these proceedings relate “to whether Ms. Nelson or any other criminally charged and/or convicted individuals ‘controlled’ lien claimant entities and thus, whether lien claimants’ liens should be subject to a section 4615 stay⁶...and/or, could**

⁵ SCIF mistakenly contends in the Supplemental Pleading that the WCJ has no authority under section 139.21 to appoint liaison counsel, and that Alison Chandler of the DIR’s Anti-Fraud Unit is already acting as the “special lien proceeding attorney” pursuant to the Director’s appointment authority under section 139.21, subdivision (f).

⁶ See *Villanueva v. Teva Foods* (2019) 84 Cal.Comp.Cases 198 [2019 Cal.Wrk.Comp. LEXIS 13] (significant panel decision), and *Hernandez v. Select Staffing*, 2020 Cal. Wrk. Comp. P.D. LEXIS 107).

be subject to the AD’s suspension proceedings under section 139.21(a)(1)(D)." (Opinion and Orders Dismissing Petition for Disqualification, Granting Petitions for Removal and Decision after Removal, January 21, 2021 (January 2021 Decision), p. 32, bold added.) In other words, this proceeding is *not* about the merits of the individual lien claims but is about the carriers’ allegations of *a common defense* to all liens involved in the consolidation.

The WCJ also points out in the Report that in lieu of evidentiary support for its claims, SCIF could have met and conferred with counsel for real parties in interest (as advised by the WCJ at the May 1, 2025 status conference) to negotiate a stipulated dismissal of SCIF from these consolidated proceedings. (Report, p. 5.) The Appeals Board notes that all parties, including SCIF were served with the Anti-Fraud Unit’s updated list of outstanding liens by at least January 27, 2025. (Order Re: Service of AFU Memo Regarding Remaining Liens (with Exhibits), January 27, 2025.) However, despite SCIF’s protestations that it has already paid the original service provider or “purported owners of the receivables” in all but 3 of the 65 listed liens, SCIF either did not or was not able to obtain any type of stipulation or dismissal from counsel for real parties in interest.

Finally, the petition repeats legal arguments from SCIF’s prior petition for reconsideration that the Appeals Board rejected in the November 18, 2024 Opinion and Order Granting Petition for Reconsideration and Decision after Reconsideration (November 2024 Decision), when we determined that the WCJ and/or the Appeals Board has jurisdiction to appoint liaison counsel in proceedings properly consolidated under WCAB Rule 10396. Nothing in the current petition persuades us to change our minds. We reject SCIF’s argument that it cannot be appointed liaison counsel in a WCAB Rule 10396 consolidated proceeding for the same reasons set forth in the November 2024 Decision:

[W]e concur with the WCJ that the petition’s contentions that SCIF somehow lacks authority to act as any other workers’ compensation carrier in these consolidated proceedings are unavailing. (See Ins. Code, § 11778 [“The fund may transact workers’ compensation insurance required or authorized by law of this state to the same extent as any other insurer...”]; *Courtesy Ambulance Service v. Superior Court* (1992) 8 Cal.App.4th 1504, 1513, 1515, fn. 9, 1516 [SCIF is “in its purpose and everyday function...indistinguishable from a private corporation”; Legislature intended SCIF to be self-supporting (Lab. Code, § 11775) and competitive with other insurers].)² SCIF provides no specific exemption in the California Constitution, the Labor Code, or the Insurance Code that would preclude SCIF from acting as liaison counsel in a consolidated workers’ compensation proceeding.

² See also Ins. Code, § 1875.20 [“Every insurer admitted to do business in this state, except those otherwise exempted in this code, shall provide for the continuous operation of a unit or division to investigate possible fraudulent claims by insureds or by persons making claims for services or repairs against policies held by insureds.”]; Ins. Code, § 1875.21 [“Insurers may maintain the unit or division required by this article using its employees or by contracting with others for that purpose.”]; Ins. Code, § 1875.23 [“For purposes of this article, ‘unit or division’ may include the assignment of fraud investigation to employees whose principal responsibilities are the investigation and disposition of claims. If an insurer creates a distinct unit or division, hires additional employees, or contracts with another entity to fulfill the requirements of this article, the additional cost incurred shall be included as an administrative expense for rate setting purposes.”].

(November 2024 Decision, p. 4.)

In addition, we concur with the WCJ that SCIF has the same duty to defend against a potentially fraudulent lien claim as any other workers’ compensation carrier. (Report, pp. 6-7.) There does not appear to be a dispute that the liens of the real parties in interest are alleged to arise from the furnishing of medical care in workers’ compensation claims, nor that the issues presented for consolidation involve *a common defense* to all liens involved in the consolidation (i.e., whether the real parties in interest are sufficiently controlled by those charged and/or convicted of criminal offenses enumerated in section 139.21 to have their liens stayed and/or be subject to section 139.21 proceedings).

SCIF has staff counsel to defend itself and its insureds interests. In §11774 SCIF argues that this would not be a covered loss and therefore not subject to coverage. The failure to defend here would result in the potential undefended loss of over \$3,000,000.00. The failure to act as liaison counsel will irreparably harm its insureds, unnecessarily exposing them to liability that may otherwise be addressed in this consolidation. SCIF’s duty is to defend under the policy. This includes addressing the case in chief as well as ancillary items such as: the liens, contribution or restitution between defendants, and arbitrations. Acting as liaison counsel is part and parcel of working on a file. It is not something that is precluded by the Labor Code. There is no limitation in the Insurance Code that prevents them to be designated the liaison counsel. As required of every insurance company, including SCIF, is required to have a special investigation unit or fraud unit specially created to handle tasks such as this. If they do not want to have staff counsel defend this case then it may be appropriate for them to retain outside counsel to defend their insureds interests.

(Report, p. 7.)

Accordingly, we deny reconsideration because SCIF filed a skeletal petition and raised the same legal contentions already rejected in our prior decision.

For the foregoing reasons,

IT IS ORDERED that State Compensation Insurance Fund's Petition for Removal of the Order Appointing New Liaison Counsel issued by a workers' compensation administrative law judge on June 3, 2025 is **DISMISSED**.

IT IS FURTHER ORDERED that State Compensation Insurance Fund's Petition for Reconsideration of the Order Appointing New Liaison Counsel issued by a workers' compensation administrative law judge on June 3, 2025 is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ CRAIG SNELLINGS, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ JOSEPH V. CAPURRO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

August 25, 2025

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

AJF/mc

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

/SERVICE LIST/

**FRONTLINE MEDICAL ASSOCIATES, INC.
LAW OFFICES OF GEORGE SHOHE
MOKRI, VANIS & JONES
DIMACULANGAN AND ASSOCIATES (TRAVELERS)
CALIFORNIA INSURANCE GUARANTEE ASSOCIATION
MICHAEL SULLIVAN AND ASSOCIATES (GALLAGHER BASSETT SERVICES, INC.)
CHERNOW, PINE, AND WILLIAMS (ZENITH INSURANCE COMPANY)
LAW OFFICE OF ALAN PAIK (ZURICH AMERICAN INSURANCE COMPANY)
MARISSA SCHERMBECK NELSON
PEATMAN LAW GROUP
SOUTH BAY SURGICAL AND SPINE INSTITUTE
ACCOUNTS RECEIVABLE, LTD.
ACCOUNTS RECEIVABLE ACQUISITION
DEPARTMENT OF INDUSTRIAL RELATIONS, ANTI-FRAUD UNIT (OAKLAND)
STATE COMPENSATION INSURANCE FUND, LEGAL**

AJF/mc