

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

CRESENCIO CRUZ DE LA CRUZ, *Applicant*

vs.

**YOUR VALET, INC.;
EMPLOYERS PREFERRED INSURANCE COMPANY, *Defendants***

**Adjudication Number: ADJ12047947
Marina del Rey District Office**

**OPINION AND ORDER
DISMISSING PETITION FOR
RECONSIDERATION**

Applicant's former attorney seeks reconsideration of the Order Approving Compromise & Release issued by a workers' compensation administrative law judge on October 1, 2025.

Petitioner contends in relevant part that the Compromise & Release (C&R) contains an incorrect calculation for a third party credit and seeks to set it aside.

We received an Answer from defendant. We received a Report and Recommendation (Report) from the Presiding WCJ that recommends that the Petition be dismissed or denied, or that it be considered as a petition to set aside at the trial level.

We have considered the allegations of the Petition for Reconsideration and the Answer and the contents of the Report. Based on our review of the record, and as explained below, we will dismiss the Petition so that it may be considered in the first instance as a petition to set aside.

I.

The PWCJ's Report provides the following factual background:

Applicant, Cresencio Cruz de la Cruz, while employed on 7/10/2018, as a Car Detailer, by Your Valet, Inc. in Santa Monica, California, filed an Application for Adjudication of Claim alleging injury to multiple body parts on 2/28/2019.

The Applicant was initially represented by Andrew Altholz. Applicant then became represented by the Law offices of William W. Green and Associates on 1/23/2023. On 10/1/2025, WCJ Jeffrey Ward (now retired) issued an Order Approving Compromise & Release of the case at issue but the order specifically included

language instructing Defendant to withhold the attorney fees in trust between present and former counsel as no agreement had been reached by the date of his approval of the Compromise and Release on 10/1/2025. Defendant was delegated to serve the OACR on all parties pursuant to CCR Section 10629. However, it does not appear that the proof of service dated 10/8/2025 was served on Petitioner. (See EAMS Document Id #60459927) On 12/2/2025, Defendant filed a DOR to facilitate an attorney fee split agreement and this DOR was served on all parties on the official address list including Petitioner. The matter was scheduled for status conference before the WCJ Ward on 1/26/2026. Petitioner failed to appear at the status conference. The lien of prior attorney, Dominguez Firm, was resolved for \$200.00. Additionally, Judge Ward noted an Order on the Minutes of Hearing as follows, “Defendant may pay attorney fees to William Green, (who shall hold fees in trust pending resolution).(See EAMS Document Id#79985144) On 3/4/2026, the matter was continued to 4/15/2026 for status conference before the undersigned as Petitioner was not present. The Honorable Jeffrey Ward retired as of 1/31/2026.

Andrew Altholz filed verified Petition for Reconsideration identifying himself as follows, “Former Counsel for Applicant, Andrew P. Altholz, and others”. The petition is dated 3/3/2026 but received as of 3/10/2026. Defendant filed a verified Answer to Petition for Reconsideration on 3/6/2026.

II.

Former Labor Code section 5909¹ 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 in Events in the Electronic Adjudication Management System (EAMS). Specifically, in Case Events, under

¹ Unless otherwise stated, all further statutory references are to the Labor Code.

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 March 27, 2026, and 60 days from the date of transmission is May 26, 2026. This decision is issued by or on May 26, 2026, 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 by the PWCJ, the Report was served on March 27, 2026, and the case was transmitted to the Appeals Board on March 27, 2026. 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 March 27, 2026.

III.

The Appeals Board has continuing jurisdiction to “rescind, alter, or amend any order, decision, or award,” if a petition is filed within five years of the date of injury and “good cause” to reopen is shown. (Lab. Code, §§ 5803, 5804.) Further, “[t]he Workers’ Compensation Appeals Board shall inquire into the adequacy of all Compromise and Release agreements and Stipulations with Request for Award, and may set the matter for hearing to take evidence when necessary to determine whether the agreement should be approved or disapproved, or issue findings and awards.” (Cal. Code Regs., tit. 8, § 10700(b).)

“A stipulation is ‘An agreement between opposing counsel ... ordinarily entered into for the purpose of avoiding delay, trouble, or expense in the conduct of the action,’ (Ballentine, Law Dict. (1930) p. 1235, col. 2) and serves ‘to obviate need for proof or to narrow range of litigable issues’ (Black’s Law Dict. (6th ed. 1990) p. 1415, col. 1) in a legal proceeding.” (*County of Sacramento v. Workers’ Comp. Appeals Bd. (Weatherall)* (2000) 77 Cal.App.4th 1114, 1118 [65 Cal.Comp.Cases 1].)

We note that while the parties may stipulate to the facts in controversy, the WCJ is not bound by the parties' stipulations and may make further inquiry into the matter "to enable it to determine the matter in controversy." (Lab. Code, § 5702; see also *Weatherall, supra*, at p. 1119; *Turner Gas Co. v. Workers' Comp. Appeals Bd. (Kinney)* (1975) 47 Cal.App.3d 286 [40 Cal.Comp.Cases 253].) However, WCAB Rule 10835 provides that no finding shall be made contrary to a stipulation of the parties without giving the parties notice and an opportunity to be heard. (Cal. Code Regs., tit. 8, § 10835.)

Stipulations are binding on the parties unless, on a showing of good cause, the parties are given permission to withdraw from their agreements. (*Id.* at p. 1121.) "Good cause" to set aside an order or stipulations depends upon the facts and circumstances of each case. "Good cause" includes mutual mistake of fact, duress, fraud, undue influence, and procedural irregularities. (*Johnson v. Workmen's Comp. Appeals Bd.* (1970) 2 Cal.3d 964, 975 [35 Cal.Comp.Cases 362]; *Santa Maria Bonita School District v. Workers' Comp. Appeals Bd.* (2002) 67 Cal.Comp.Cases 848, 850 (writ den.); *City of Beverly Hills v. Worker's Comp. Appeals Bd. (Dowdle)* (1997) 62 Cal.Comp.Cases 1691, 1692 (writ den.); *Smith v. Workers' Comp. Appeals Bd.* (1985) 168 Cal.App.3d 1160, 1170 [50 Cal.Comp.Cases 311] (writ den.)) To determine whether there is good cause to rescind stipulations and awards, the circumstances surrounding their execution and approval must be assessed. (See Lab. Code, § 5702; *Weatherall, supra*, at pp. 1118-1121; *Robinson v. Workers' Comp. Appeals Bd. (Robinson)* (1987) 199 Cal.App.3d 784, 790-792 [52 Cal.Comp.Cases 419]; *Huston v. Workers' Comp. Appeals Bd. (Huston)* (1979) 95 Cal.App.3d 856, 864-867 [44 Cal.Comp.Cases 798].)

We also observe that contract principles apply to settlements of workers' compensation disputes, and "[t]he legal principles governing compromise and release agreements are the same as those governing other contracts." (*Burbank Studios v. Workers' Co. Appeals Bd. (Yount)* (1982) 134 Cal.App.3d 929, 935 [47 Cal.Comp.Cases 832].) "For a compromise and release agreement to be effective, the necessary elements of a contract must exist, including an offer of settlement of a disputed claim by one of the parties, and an acceptance by the other. [Citation.]" (*Id.*)

The essential elements of contract include the mutual consent of the parties, as there can be no contract unless there is a meeting of the minds and the parties mutually agree upon the same thing in the same sense. (Civ. Code, §§ 1550, 1565, 1580; *German Sav. & Loan Soc. v. McLellan* (1908) 154 Cal. 710, 716; *Sackett v. Starr* (1949) 95 Cal.App.2d 128, 133.) "A contract must be

so interpreted as to give effect to the mutual intention of the parties as it existed at the time of contracting, so far as the same is ascertainable and lawful. [Citations.]” (*County of San Joaquin v. Workers’ Compensation Appeals Bd. (Sepulveda)* (2004) 117 Cal.App.4th 1180, 1184 [69 Cal.Comp.Cases 193].)

Additionally, there must be a complete record for our review of the case. “[A] proper record enables any reviewing tribunal, be it the Board on reconsideration or a court on further appeal, to understand the basis for the decision.” (*Hamilton v. Lockheed Corporation* (2001) 66 Cal.Comp.Cases 473, 475 (Appeals Bd. en banc).) Decisions of the Appeals Board “must be based on admitted evidence in the record” (*Id.* at p. 476), and must be supported by substantial evidence (Lab. Code, §§ 5903, 5952(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. Workmen’s Comp. Appeals Bd.* (1970) 1 Cal.3d 627 [35 Cal.Comp.Cases 16]). 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.” (*Hamilton, supra*, at 475.)

Moreover, all parties to a workers’ compensation proceeding retain their fundamental right to due process and a fair hearing under both the California and United States Constitutions. (*Rucker v. Workers’ Comp. Appeals Bd.* (2000) 82 Cal.App.4th 151, 157-158 [65 Cal.Comp.Cases 805].) A fair hearing includes, but is not limited to, the opportunity to call and cross-examine witnesses; introduce and inspect exhibits; and offer evidence in rebuttal. (*Gangwish v. Workers’ Comp. Appeals Bd.* (2001) 89 Cal.App.4th 1284, 1295 [66 Cal.Comp.Cases 584]; *Rucker, supra*, 82 Cal.App.4th at pp. 157-158, citing *Kaiser Co. v. I.A.C.* (1952) 109 Cal.App.2d 54, 58 [17 Cal.Comp.Cases 21]; *Katzin v. Workers’ Comp. Appeals Bd.* (1992) 5 Cal.App.4th 703, 710-712 [57 Cal.Comp.Cases 230].)

We note the following as to the issues raised in the Petition.

An attorney who becomes disbarred during the case proceedings is not entitled to continue representation of a client before the WCAB, but does have standing to proceed on their own behalf. The disbarred attorney is still entitled to assert a claim for payment for services rendered while licensed in good standing. (See Cal. Code Regs., tit. 8, § 10445.) Section 5900 provides that any “person aggrieved directly or indirectly by any final order, decision, or award” may seek

reconsideration. While petitioner is not a party to the actual C&R, petitioner is entitled to challenge the final order approving the C&R.

With respect to the C&R, two injuries were settled, but only one case number is identified in the C&R and only one case number is listed on the Order Approving the C&R. In Paragraph 9, they state that both are denied. Upon return, this discrepancy should be explored.

As a matter of statute, under section 3856, defendant's maximum recovery is limited to the monies it has expended, and attorney's fees and costs are calculated as well. Under section 3861, a defendant may take a credit against liability for future benefits owed. To the extent that a defendant contributed to an applicant's injuries, defendant's recovery rights may be correspondingly limited to a percentage of recovery rather than a 100% recovery as would be appropriate when defendant did not cause applicant's injury.

The petition for credit alleges that applicant received \$70,000 in the third party suit, with a net of \$42,957.86, but in the C&R, defendant took credit for the entire amount of applicant's recovery of \$42,957.86. The C&R reflects that defendant paid \$10,211.00 in medical benefits and paid no temporary or permanent disability benefits. Thus, based on the face of the C&R, defendant's maximum entitlement to recovery in the third party suit would be \$10,211.00. Moreover, the actual monies paid by defendant in the C&R are \$10,950.00 (attorney's fees) and \$19,092.14 (applicant), for a total of \$30,042.14. This raises questions as to the basis for the calculations.

Accordingly, we dismiss the Petition as premature and return the matter to the trial level for further proceedings consistent with this opinion. Upon return of this matter to the trial level, the WCJ may treat the petition as a petition to set aside the C&R, conduct further proceedings, and create a record on which a decision can be made as to whether there are grounds for setting aside the agreement. After the WCJ issues a decision, any aggrieved party may timely seek reconsideration.

For the foregoing reasons,

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

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

I CONCUR,

/s/ JOSEPH V. CAPURRO, COMMISSIONER

/s/ JOSÉ H. RAZO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

MAY 26, 2026

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

**CRESENCIO CRUZ DE LA CRUZ
WILLIAM GREEN, ESQ.
TOBIN LUCKS
ANDREW P. ALTHOLZ, ESQ.**

AS/mc

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