

WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA

CRISTOFER RAMIREZ LARA, *Applicant*

vs.

**THE DING DOCTOR, INC.; TRAVELERS PROPERTY CASUALTY COMPANY
OF AMERICA, *Defendants***

**Adjudication Number: ADJ18961023
Van Nuys District Office**

**OPINION AND ORDER
DENYING PETITION FOR
RECONSIDERATION**

Physical Rehabilitation Services, Inc., and Arbi Mirzaians, D.C., (cost petitioner) seeks reconsideration of the Findings of Fact and Orders (F&O) issued on October 22, 2025 by the workers' compensation administrative law judge (WCJ) which found, in pertinent part, that there is "no good cause to find actions by the defendant to warrant sanctions" under Labor Code¹ section 5813. The WCJ further ordered that cost petitioner's petitions for sanctions were denied.

Cost petitioner contends that defendant failed to timely pay them for services rendered pursuant to sections 5402(c) and 4063.2, thereby engaging in frivolous conduct, warranting sanctions pursuant to section 5813 and WCAB Rule 10786 (Cal. Code Regs., tit. 8, § 10786).

We have not received an answer from defendant. The WCJ filed a Report and Recommendation (Report) on the Petition for Reconsideration recommending that we deny reconsideration.

We have considered the allegations of the Petition for Reconsideration and the contents of the Report of the WCJ with respect thereto. Based on our review of the record, and as discussed below, we will deny the Petition for Reconsideration.

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

I.

Preliminarily, we note that former 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.

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 November 24, 2025 and 60 days from the date of transmission is January 23, 2026. This decision was issued by or on January 23, 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 and Recommendation by the WCJ, the Report was served on November 24, 2025, and the case was transmitted to the Appeals Board

on November 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 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 November 24, 2025.

II.

BACKGROUND

Applicant filed an application for adjudication of claim alleging industrial injury on June 15, 2023 to his back and hips. (Exhibit 1, at p. 9.)

On March 20, 2024, a notice of delay in determining liability for worker's compensation benefits issued to applicant. (Exhibit 2.)

On April 15, 2024, defendant noticed cost petitioner that while applicant's claim was under review, defendant was required to provide treatment up to a total cost of \$10,000.00 or until the determination was made to deny the claim, whichever occurred first. (Exhibit 5, at p. 2.) Defendant further indicated that treatment was subject to utilization review, and authorization for treatment could be rescinded at any time. (*Id.*)

On April 28, 2024, applicant's attorney designated cost petitioner as applicant's primary treating physician (PTP) pursuant to section 4600, and requested a medical-legal evaluation under section 4060. (Exhibit 6, at p. 1.)

On May 30, 2024, cost petitioner evaluated applicant and issued an Initial PTP Report and Request for Authorization. (Exhibit 7.) Cost petitioner determined that there was no objective evidence of injury to applicant's lumbar spine or bilateral hips. (*Id.* at p. 11.)

On June 3, 2024, defendant issued a notice of denial for worker's compensation benefits based on a lack of substantial medical evidence of injury. (Exhibit 4, at p. 1.)

On July 5, 2024, cost petitioner served an invoice dated June 18, 2024, for the May 30, 2024 date of service for \$923.74, the May 30, 2024 report, and a W-9. (Exhibit 9.)

On August 21, 2024, cost petitioner served defendant with a "45 Days follow-up Demand Letter and Notice to TPA/Carrier for Failure to Comply with section 4603.3" and copies of the May 30, 2024 report and June 18, 2024 invoice. (Exhibit 9.)

On August 28, 2024, defendant issued an Explanation of Reimbursement (EOR) to cost petitioner for the May 30, 2024 date of service. (Exhibit 8, at pp. 8-10.) The billed amount was \$923.76, and the paid amount was \$0.00 on the grounds that these services were already considered for reimbursement. (*Id.*)

The case-in-chief settled by way of a Compromise and Release, and on September 25, 2024, an Order Approving Compromise and Release issued.

On October 22, 2024, cost petitioner again requested payment for the date of service of May 30, 2024. (Exhibit 11.)

On November 18, 2024, cost petitioner requested a second bill review of the August 28, 2024 EOR marked as Exhibit 12. (Exhibit 8 at pp. 1-6.)

On January 29, 2025, cost petitioner filed a “Petition for Penalties, Interest, Expenses, Costs, Sanctions and Fees” dated January 15, 2025.

On May 27, 2025, cost petitioner and defendant agreed to resolve cost petitioner’s May 30, 2024 invoice for \$626.00 including penalties and interest if payment issued within 30 days.

On October 1, 2025, cost petitioner filed an “Amended Petition for Sanctions, Costs and Fees.”

On October 2, 2025, the matter proceeded to trial. The only issue for trial was cost petitioner’s request for sanctions per its petitions of January 15, 2025 and October 1, 2025. (MOH/SOE, at p. 2:20-21.)

The WCJ found no good cause to find that defendant’s actions warranted sanctions under section 5813, and he denied the petitions for sanctions.

It is from this F&O that cost petitioner seeks reconsideration.

III.

Cost petitioner contends that defendant authorized treatment under section 5402(c) in the 90 day delay period, but then compelled cost petitioner to litigate their payment in violation of section 4603.3. (Petition for Reconsideration, at p. 3.) Cost petitioner asserts this shows a violation of WCAB Rule 10421 (Cal. Code Regs., tit. 8, § 10421) warranting sanctions because defendant failed to comply with the regulations and sections 4603.3 and 5402(c), and its primary purpose was to cause unnecessary delay or needless increase in litigation costs.

WCAB Rule 10786 (Cal. Code Regs., tit. 8, § 10786) sets forth the framework for a determination of a medical-legal dispute. With respect to the issue raised here, costs and sanctions, subdivision (i)(1) states that:

(1) If the Workers' Compensation Appeals Board determines that, *as a result of bad faith actions or tactics*, a defendant failed to comply with the requirements, timelines and procedures set forth in Labor Code sections 4622, 4603.3 and 4603.6 and the related Rules of the Administrative Director, *the defendant shall be liable for the medical-legal provider's reasonable attorney's fees and costs and for sanctions under Labor Code section 5813 and rule 10421*. The amount of the attorney's fees, costs and sanctions payable shall be determined by the Workers' Compensation Appeals Board; however, for bad faith actions or tactics occurring on or after October 23, 2013, the monetary sanctions shall not be less than \$500.00. These attorney's fees, costs and monetary sanctions shall be in addition to any penalties and interest that may be payable under Labor Code section 4622 or other applicable provisions of law, and in addition to any lien filing fee, lien activation fee or IBR fee that, by statute, the defendant might be obligated to reimburse to the medical-legal provider.

(Cal. Code Regs., tit. 8, § 10786(i)(1), emphasis added.)

The Appeals Board is authorized to impose sanctions, costs and attorney's fees under section 5813, which states, in pertinent part, that

(a) The workers' compensation referee or appeals board may order a party, the party's attorney, or both, to pay any reasonable expenses, including attorney's fees and costs, incurred by another party as a result of bad-faith actions or tactics that are frivolous or solely intended to cause unnecessary delay. In addition, a workers' compensation referee or the appeals board, in its sole discretion, may order additional sanctions not to exceed two thousand five hundred dollars (\$2,500) to be transmitted to the General Fund.

(Lab. Code, § 5813(a).)

Cost petitioner contends that as relevant here, WCAB Rule 10421 states in pertinent part that:

(b) Bad faith actions or tactics that are frivolous or solely intended to cause unnecessary delay include actions or tactics that result from a willful failure to comply with a statutory or regulatory obligation, that result from a willful intent to disrupt or delay the proceedings of the Workers' Compensation Appeals Board, or that are done for an improper motive or are indisputably without merit. Violations subject to the provisions of Labor Code section 5813 shall include but are not limited to the following:

(4) Failing to comply with the Workers' Compensation Appeals Board's Rules of Practice and Procedure, with the regulations of the Administrative Director, or with any award or order of the Workers' Compensation Appeals Board, including an order of discovery, which is not pending on reconsideration, removal or appellate review and which is not subject to a timely petition for reconsideration, removal or appellate review, unless that failure results from mistake, inadvertence, surprise or excusable neglect.

(6) Bringing a claim, conducting a defense or asserting a position:

(A) That is:

- (i) Indisputably without merit;
- (ii) Done solely or primarily for the purpose of harassing or maliciously injuring any person; and/or
- (iii) Done solely or primarily for the purpose of causing unnecessary delay or a needless increase in the cost of litigation; and

(B) Where a reasonable excuse is not offered or where the offending party has demonstrated a pattern of such conduct.

(Cal. Code Regs., tit. 8, § 10421(a)(b).)

Sanctions under section 5813 are designed to punish litigation abuses and to provide the court with a tool for curbing improper legal tactics and controlling their calendars, not to penalize or remedy delayed payments of awards. (*Duncan v. Workers' Comp. Appeals Bd.* (2008) 166 Cal.App.4th 294, 302.) Accordingly, sanctions are similar to penalties under section 5814 in that they are designed to have both remedial and penal aspects. (See *Ramirez v. Drive Financial Services* (2008) 73 Cal.Comp.Cases 1324 (Appeals Board En Banc).)

Here, on April 15, 2024, defendant noticed cost petitioner that while applicant's claim was under review, it was required to provide medical treatment up to a total cost of \$10,000.00 subject to utilization review, with authorization subject to rescission. On April 28, 2024, applicant's attorney designated cost petitioner as applicant's PTP and requested a medical-legal evaluation pursuant to section 4060. On May 30, 2024, cost petitioner issued an evaluation. Informally, on May 27, 2025, cost petitioner and defendant agreed to resolve cost petitioner's May 30, 2024 invoice by way of a stipulation. On October 1, 2025, petitioner filed an "Amended Petition for Sanctions, Costs and Fees."

Based on the evidence in the record, although not raised as an issue at trial, defendant and cost petitioner appeared to have essentially complied with the requirements for review set forth in

section 4622 and WCAB Rule 10786.² Although it appears that defendant may not have timely responded to cost petitioner's July 5, 2024 demand for payment and second review request, these two delays in response to payment requests by cost petitioner, while incorrect, can be construed as routine errors. There is no evidence in the record that these mistakes by defendant, even if negligent, rose to the level of bad faith actions or tactics that are frivolous or solely intended to cause unnecessary delay that are contemplated by section 5813.

After careful consideration of the record, we agree with the WCJ that cost petitioner failed to demonstrate that defendant's actions were frivolous or in bad faith so as to warrant sanctions pursuant to section 5813. Accordingly, we deny the Petition for Reconsideration.

² It is clear that cost petitioner sought recovery for preparation of a medical legal evaluation. We are unable to discern the basis for the WCJ's confusion that cost petitioner was not entitled to pursue recovery as a cost petitioner.

For the foregoing reasons,

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

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

January 23, 2026

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

**ARBI MIRZAIANS, D.C. (PHYSICAL REHABILITATION SERVICES, INC.)
AV MANAGEMENT COLLECTION SERVICES
WOOLFORD & ASSOCIATES**

SL/abs

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