

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

ESTEBAN MARQUEZ, *Applicant*

vs.

**JNR AG, INC.; STAR INSURANCE
COMPANY, Administered by
MEADOWBROOK INSURANCE GROUP, *Defendants***

**Adjudication Number: ADJ17404265
Marina del Rey District Office**

**OPINION AND ORDER
GRANTING PETITION FOR
RECONSIDERATION
AND DECISION AFTER
RECONSIDERATION**

Cost Petitioner Document Analyst Group (cost petitioner) seeks reconsideration of the Findings and Order (F&O), issued by the workers' compensation administrative law judge (WCJ) on May 27, 2026, wherein the WCJ found in pertinent part that: applicant claims to have sustained injury arising out of and in the course of employment to arms, back and knees; the employer furnished some medical treatment; the parties resolved the case in chief by Compromise & Release (C&R) on June 20, 2023, and it was approved on July 28, 2023; defendant is not liable for the \$75.00 cancellation fee for invoice number 131263; cost petitioner did not raise the issues of attorney's fees, penalties, and interest on the PTCS; cost petitioner waived its right to seek attorney's fees, penalties, and interest; and defendant is not entitled to costs and sanctions¹.

Cost petitioner contends that defendant failed to comply with WCAB Rule 10786 (Cal. Code Regs., tit. 8, § 10786) and that the record supports an award of costs, sanctions, and attorney fees.

We received an Answer from defendant.

The WCJ issued a Report and Recommendation on Petition for Reconsideration (Report) recommending that the Petition be denied.

¹ Defendant did not challenge this finding, and we do not disturb it.

We have considered the allegations in the Petition, the Answer, and the contents of the Report. Based on our review of the record, and as discussed below, we will grant cost petitioner's Petition for Reconsideration, amend the F&O to find that cost petitioner has met its burden of proof pursuant to Labor Code² sections 4620 and 4621, that cost petitioner was paid the \$75.00 on April 22, 2025 and is entitled to penalties and interest pursuant to section 4622, that cost petitioner raised the issue of defendant's liability under WCAB Rule 10786(i) on the PTCS, and that defendant's petition for costs and sanctions is denied, and to defer the issue of defendant's liability under WCAB Rule 10786(i). We return this matter to the WCJ for further proceedings consistent with this opinion.

BACKGROUND

We will briefly review the relevant facts.

Applicant claimed to have sustained injury arising out of and in the course of employment to the arms, back and knees while employed by defendant as an agricultural worker on September 1, 2022.

On March 3, 2023, applicant's attorney, issued a section 4600 letter to defendant, which included a demand for all employer records regarding applicant. (Exhibit 1, 3/3/2023.)

On March 3, 2023, applicant's attorney submitted an order form to cost petitioner. (Exhibit 2, 3/3/2023.)

On March 8, 2023, applicant's attorney filed an Application for Adjudication of Claim (Application) and Paragraph 9 of the Application states, "This application is filed because of a disagreement regarding liability for: Temporary disability indemnity, Permanent disability indemnity, Reimbursement for medical expense, Rehabilitation, Medical treatment, Supplemental Job Displacement/Return to Work, Compensation at proper rate, Other (Specify) ALL BENEFITS PER LC."

On March 30, 2023, defendant's attorneys issued a Notice of Representation by way of a letter and requested all medical records and reports not previously served and all Notices of Application.

On April 12, 2023, defendant filed an Answer denying the allegations of the Application in relevant part as follows: "Injury, Liability for self-procured treatment, Liability for future

² Unless otherwise stated, all further statutory references are to the Labor Code.

medical treatment, Medical Legal Costs, Earnings, Periods of Disability, Rehabilitation, Supplemental Job displacement/return to work, and Permanent disability.” Additionally, defendant alleged various affirmative defenses, including employment because “the employer has no record of employing this person.”

On May 1, 2023, cost petitioner issued a Subpoena Duces Tecum (SDT) to applicant’s employer, JNR AG, Inc. (Exhibit 3, 5/1/2023.)

The case in chief was resolved by way of a C&R signed by parties and representatives on June 20, 2023. On July 28, 2023, a WCJ issued an OACR.

On August 21, 2023, applicant’s attorneys cancelled a subpoena for records from Meadowbrook Insurance. On September 25, 2023, applicant’s attorneys cancelled a subpoena for defendant/employer JNR AG, Inc. (Exhibit 7, 8/21/2023, 9/25/2023.)

On October 27, 2023, cost petitioner issued Invoice #130789, that shows a cancelled subpoena for the records from Meadowbrook Insurance, with a charge of \$75.00, with payment received, and a zero balance. (Exhibit D, 10/27/23.)³

On January 8, 2024, cost petitioner issued Invoice #131263 in the amount of \$75.00 for cancelled service, marked “past due,” and served defendant. (Exhibit 4, 1/8/2024.)

On January 30, 2024, defendant issued an Explanation of Review (EOR), wherein the \$75.00 “CANCELLED SERVICE (COPY SERVICES)” for Invoice # 131263 for records from JNR AG, Inc., was denied by defendant, with zero as the payment amount. The reason listed is that this charge is considered a duplicate. (Exhibit C, 1/30/2024.)

On February 12, 2024, cost petitioner issued a response to the objection, wherein it stated in relevant part that, per the fee schedule it was entitled to \$75.00 in the event of cancellation after a subpoena or request for records by authorization has been issued, but before records are produced and that cost petitioner served a SDT for employment records that were not produced and were cancelled. (Exhibit 5, 2/12/2024.)

On July 22, 2024, cost petitioner’s attorney filed a Notice of Representation, and a copy of cost petitioner’s invoice for the cancelled SDT services marked “past due” was attached. (Exhibit 6, 7/19/2024.)

³ At trial, cost petitioner objected to defendant’s Exhibits A-D and they were marked for identification only. The WCJ stated that she would rule on admissibility at the time of the decision. Unfortunately, no ruling was made. In her Opinion on Decision, the WCJ states that Exhibits A and B were admitted into evidence and that Exhibits C and D were not because they were not listed on the PTCS. For the reasons explained herein, we will admit Exhibits A-D.

On March 5, 2025, cost petitioner filed a Petition for Reimbursement pursuant to WCAB Rule 10786, and a Declaration of Readiness (DOR).

On April 22, 2025, according to an unauthenticated screenshot from defendant's computer system, defendant issued payment of \$75.00 on Invoice #131263. (Exhibit B.)

On May 1, 2025, a status conference was held and the matter was set for a mandatory settlement conference on July 1, 2025. On July 1, 2025, the parties submitted a Pre-Trial Conference Statement (PTCS). Among the issues listed were: "Did defense comply with CCR 10786 a and f; May failure to comply with 10786 a and f result in bad faith per CCR 10421." Among the exhibits listed by defendant was "Proof of Payment to Analyst Group."

On June 18, 2025, defendant filed a Petition for Costs and Sanctions and asserted that if cost petitioner continued to pursue this matter, defendant will seek reimbursement of its legal costs.

On April 7, 2026, the matter proceeded to trial. The issues for trial were: 1) whether defendant is liable for the \$75 cancellation fee per Invoice No. 131263; 2) did cost petitioner raise the issues of attorney's fees, penalties, and interest on the Pre-Trial Conference Statement; 3) Whether cost petitioner is entitled to attorney's fees, penalties, and interest; 4) whether defendant is entitled to costs and sanctions.

On May 27, 2026, the WCJ issued the Findings of Fact which cost petitioner challenges. In her Opinion, the WCJ states that she did not award cost petitioner the \$75.00 cancellation fee because it failed to demonstrate that it complied with AD Rule 9984(a)(2)(A) (Cal. Code Regs., tit. 8, § 9984(a)(2)(A)) when it submitted the request for payment. With respect to sanctions, fees, penalties, and interest, the WCJ stated that she did not believe that cost petitioner raised the issue on the PTCS and that since she did not award the \$75.00, the issue was moot.

DISCUSSION

I.

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 June 11, 2026 and 60 days from the date of transmission is August 10, 2026. This decision is issued by or on August 10, 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 workers’ compensation administrative law judge, the Report was served on June 11, 2026, and the case was transmitted to the Appeals Board on June 11, 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 June 11, 2026.

II.

A cost petitioner holds the burden of proof to establish all elements necessary to establish its entitlement to payment for a medical-legal expense. (See §§ 3205.5, 5705.5; *Torres v. AJC Sandblasting* (2012) 77 Cal.Comp.Cases 1113, 1115 (Appeals Board en banc).) As we explained

in our en banc decision in *Colamonico v. Secure Transportation* (2019) 84 Cal.Comp.Cases 1059 (Appeals Board en banc), section 4622 provides the framework for reimbursement of medical-legal expenses. Subsection (f) of the statute, however, specifically states that “[t]his section is not applicable unless there has been compliance with Sections 4620 and 4621.” (§ 4622(f).)

Thus, a cost petitioner is required to establish that: 1) a contested claim existed at the time the expenses were incurred; 2) the expenses were incurred for the purpose of proving or disproving the contested claim; and 3) the expenses were reasonable and necessary at the time were incurred. (§§ 4620, 4621, 4622(f); *Colamonico, supra*, 84 Cal.Comp.Cases 1059.)

Here, in her Opinion, the WCJ concluded that a contested claim existed at the time that cost petitioner subpoenaed the records from applicant’s employer and that the subpoena was reasonable and necessary. We agree with the WCJ’s analysis, and defendant did not dispute that cost petitioner met its burden under sections 4620 and 4621. Thus, we proceed to the issue of section 4622 and WCAB Rule 10786.

A defendant has 60 days to review and analyze a medical-legal bill or invoice. (Lab. Code, §4622(a)(1).) A defendant has two options within this 60-day window: It may pay the bill or invoice in full or pay less than the full amount. Should a defendant decide to pay less than the full amount within the 60-day window, it may still avoid the imposition of a penalty and interest by including an EOR with its payment. Section 4622 requires that a defendant object to the invoice or billing with an EOR as described in section 4603.3. (Lab. Code, §§ 4622(a)(1), (e)(1); 4603.3.) Objecting to an invoice with an EOR within the 60-day window is defendant’s burden. If a defendant does not pay a proper medical-legal invoice in full or fails to provide an EOR within the 60-day window, then a defendant has waived all objections, other than compliance with sections 4620 and 4621, to the medical-legal provider’s billing. (Cal. Code Regs., tit. 8, § 10786(e); see *Colamonico, supra*.) A defendant is then liable for the reasonable value of the medical-legal services as well as a 10 percent penalty and 7 percent per annum interest.

On January 8, 2024, cost petitioner issued an invoice to defendant for the May 1, 2023 SDT to the employer for employment records. Defendant objected on January 30, 2024 by issuing an Explanation of Review (EOR) and cost petitioner responded on February 12, 2024 demanding payment of the \$75.00 cancellation fee. Yet, defendant did not issue payment to cost petitioner until April 22, 2025, after cost petitioner was forced to file a petition for reimbursement on March

5, 2025. *Thus, contrary to the WCJ's analysis, cost petitioner was already paid the \$75.00 cancellation fee.*

In our recent en banc decision in *Perez v. Chicago Dogs* (2025) 90 Cal.Comp.Cases 830, 837 (Appeals Board en banc) (*Chicago Dogs*), we reminded practitioners and WCJs alike that:

It is the policy of the law to favor, whenever possible, a hearing on the merits. (*Fox v. Workers' Comp. Appeals Bd.* (1992) 4 Cal.App.4th 1196, 1205 [57 Cal.Comp.Cases 149]; see also *Shamblin v. Brattain* (1988) 44 Cal.3d 474, 478 [243 Cal. Rptr. 902] (“when a party in default moves promptly to seek relief, very slight evidence is required to justify a trial court's order setting aside a default.”)) This is particularly true in workers' compensation cases, where there is a constitutional mandate “to accomplish substantial justice in all cases.” (Cal. Const., art. XIV, § 4.)

...

The workers' compensation system “was intended to afford a simple and nontechnical path to relief.” (*Elkins v. Derby* (1974) 12 Cal.3d 410, 419 [39 Cal.Comp.Cases 624]; Cf. Cal. Const., art. XX, § 21; § 3201.) Generally, “the informality of pleadings in workers' compensation proceedings before the Board has been recognized.” (*Zurich Ins. Co. v. Workmen's Comp. Appeals Bd.* (1973) 9 Cal.3d 848, 852 [38 Cal.Comp.Cases 500, 512]; *Bland v. Workmen's Comp. Appeals Bd.* (1970) 3 Cal.3d 324, 328–334 [35 Cal.Comp.Cases 513].) “[I]t is an often-stated principle that the Act disfavors application of formalistic rules of procedure that would defeat an employee's entitlement to rehabilitation benefits.” (*Martino v. Workers' Comp. Appeals Bd.* (2002) 103 Cal. App.4th 485, 490 [67 Cal.Comp.Cases 1273].) Courts have repeatedly rejected pleading technicalities as grounds for depriving the Board of jurisdiction. (*Rubio v. Workers' Comp. Appeals Bd.* (1985) 165 Cal.App.3d 196, 200–01 [50 Cal.Comp.Cases 160]; *Liberty Mutual Ins. Co. v. Workers' Comp. Appeals Bd.* (1980) 109 Cal.App.3d 148, 152–153 [45 Cal.Comp.Cases 866].) “Necessarily, failure to comply with the rules as to details is not jurisdictional.” (*Rubio, supra*, at pp. 200–201; see Cal. Code Regs., tit. 8, § 10517.)

(*Id.* at p. 836-838.)

This case presents a truly shocking example of incompetence.

First, there is simply no good reason that cost petitioner objected to defendant's Exhibits. Exhibit A, the Notice of Representation, is a pleading and should not be identified as evidence. (See Cal. Code Regs., tit. 8, § 10803.) On the PTCS, defendant identified “Proof of Payment to Analyst Group” and Exhibits B-D are evidence of payment, and in fact, those documents were central to consideration of the issues before us. Exhibits B and D demonstrate that defendant did make payment, and Exhibit C demonstrates defendant's mistake in believing that the invoice for the employment records was a duplicate. In workers' compensation, parties are expected to

proceed on the merits, and not to engage in game playing to prevent relevant evidence from being presented.

By the same token, defendant's sham argument that cost petitioner did not properly raise interest, penalties, costs, fees and sanctions on the PTCS is also meritless, and presents yet another example of a party improperly trying to derail trial of a matter on the merits. Section 4622 provides for a 10 percent penalty and 7 percent per annum interest when prompt payment is not made, and the record is clear that the invoice was issued of January 8, 2024, and payment was not made until more than 15 months later on April 22, 2026. Moreover, cost petitioner clearly identified WCAB Rule 10786 on the PTCS and identified WCAB Rule 10421 (Cal. Code Regs., tit. 8, § 10421), which is the WCAB Rule that applies to sanctions. There is no reason that defendant was not aware that sanctions, costs, and attorney's fees were at issue.

We again emphasize that parties are expected to resolve disputes amicably wherever possible, to try only those issues that are genuinely in controversy, and to avoid needless waste of scarce WCAB resources.

Accordingly, we grant cost petitioner's Petition for Reconsideration, affirm the F&O, except that we amend the F&O to find that cost petitioner has met its burden of proof pursuant to sections 4620 and 4621, that cost petitioner was paid the \$75.00 on April 22, 2025 and is entitled to penalties and interest pursuant to section 4622, that cost petitioner raised the issue of defendant's liability under WCAB Rule 10786(i) on the PTCS, and that defendant's petition for costs and sanctions is denied, and to defer the issue of defendant's liability under WCAB Rule 10786(i). We return this matter to the WCJ for further proceedings consistent with this opinion.

For the foregoing reasons,

IT IS ORDERED that cost petitioner's Petition for Reconsideration is **GRANTED**.

IT IS FURTHER ORDERED, as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the Findings of Fact of May 27, 2026 is **AFFIRMED** except that it is **AMENDED** as provided below. This matter is **RETURNED** to the trial level for further proceedings consistent with this opinion.

FINDINGS OF FACT

5. Cost petitioner, Document Analyst Group, Inc., met its burden of proof under Labor Code section 4620 to show that a contested claim existed at the time it provided its medical-legal services beginning on May 23, 2023, and that the services were reasonable and necessary at the time the costs were incurred pursuant to Labor Code sections 4620 and 4621. Defendant issued payment of \$75.00 on invoice number 131263 on April 22, 2025. Cost petitioner is entitled to penalties and interest pursuant to Labor Code section 4622. The issue of the amount of penalties and interest is deferred to be adjusted by the parties with jurisdiction reserved to the WCJ in the event of a dispute.

6. Cost petitioner raised the issue of whether defendant is liable under WCAB Rule 10786(i) (Cal. Code Regs., tit. 8, § 10786(i)) for attorney's fees, costs, and sanctions due to bad faith actions on the Pre-Trial Conference Statement.

7. The issue of whether defendant is liable under WCAB Rule 10786(i) (Cal. Code Regs., tit. 8, § 10786(i)) for attorney's fees, costs, and sanctions due to bad faith actions is deferred.

8. Defendant's Petition for Costs and Sanctions is denied.

ORDER

Defendant's Exhibits A, B, C, and D are admitted into evidence.

WORKERS' COMPENSATION APPEALS BOARD

/s/ PAUL F. KELLY, COMMISSIONER

I CONCUR,

/s/ JOSEPH V. CAPURRO, COMMISSIONER

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

August 10, 2026

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

**LAW OFFICE OF PATRICK CHRISTOFF
FLOYD SKEREN MANUKIAN LANGEVIN
PATRICK CHRISTOFF**

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*