

WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA

GREGORY MEDINA, *Applicant*

vs.

**GARVEY SCHOOL DISTRICT; Permissibly self-insured; administered by SEDGWICK
CLAIMS MANAGEMENT SERVICES, *Defendants***

**Adjudication Number: ADJ13323965
Los Angeles District Office**

**OPINION AND DECISION
AFTER RECONSIDERATION**

We previously granted lien claimant's, Premier Psychological Services, Petition for Reconsideration of the "Findings and Order" (F&O) issued on May 16, 2022, by the workers' compensation administrative law judge (WCJ), in order to further study the factual and legal issues.¹ This is our Opinion and Decision After Reconsideration.

The WCJ found, in pertinent part, that applicant did not sustain industrial injury in the form of stress, psychological complaints, and COVID 19. The WCJ further found that the services of lien claimant were not reasonable and necessary to cure or relieve from the effects of an industrial injury and ordered that lien claimant take nothing on its lien. The WCJ refused to accept exhibits which were not filed 20 days in advance of trial.

Lien claimant contends that the WCJ erred in refusing to accept the exhibits of lien claimant into evidence because the WCJ's order to file exhibits 20 days in advance was never served upon lien claimant.

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

¹ Commissioner Lowe was on the panel that issued the order granting reconsideration. Commissioner Lowe no longer serves on the Appeals Board. A new panel member has been substituted in her place.

We have considered the allegations of the Petition for Reconsideration and the contents of the WCJ's Report. Based on our review of the record and for the reasons discussed below, as our Decision After Reconsideration we will rescind the May 16, 2022 F&O and return this matter to the trial level for further proceedings.

FACTS

Per the WCJ's Report:

This case involves a denied specific injury dated 5/8/2020, with Applicant claiming injury to stress, psychological complaints, and "Covid 19". Applicant and Defendant settled the underlying case-in-chief by way of a compromise and release settlement agreement on 7/23/2021 in the amount of \$10,000.00. The settlement also included settlement of a companion case that is not at issue herein.

Lien claimant, Premier Psychological Services, filed their notice and request for allowance of lien on 6/15/2021, and are claiming a balance of \$3,200.00 with nothing paid by Defendant. Lien claimant provided services to Applicant of psychological testing and reporting.

On 8/13/2021, lien claimant, Premier Psychological Services, filed a declaration of readiness to proceed to a lien conference. This resulted in a lien conference being held on 1/11/2022, in front of WCJ Malagon. The matter was continued at that time due to further discovery.

On 3/7/2022, the parties appeared in front of the undersigned WCJ for the continued lien conference. The parties were unable to resolve their dispute at the hearing and previously filed with the Court a pretrial conference statement to set the matter for trial. After reviewing the pretrial conference statement, the undersigned WCJ continued the matter to a lien trial and made the following notation in the Minutes of Hearing:

"Matter set for trial based upon the PTCS filed on 3/2/2022. Parties shall file exhibits at least 20 days prior to trial pursuant to CCR 10620 and in accordance with CCR 10759. Failure to comply may result in exclusion pursuant to CCR 10670." (*Minutes of Hearing*, dated 3/7/2022)

(WCJ's Report, p. 2.)

EAMS does not reflect that the March 7, 2022 minutes were served upon lien claimant.

DISCUSSION

Decisions of the Appeals Board "must be based on admitted evidence in the record." (*Hamilton v. Lockheed Corporation (Hamilton)* (2001) 66 Cal.Comp.Cases 473, 476-478 (Appeals Board en banc).) 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 p. 475.)

The Appeals Board has a constitutional mandate to “ensure substantial justice in all cases.” (*Kuykendall v. Workers’ Comp. Appeals Bd.* (2000) 79 Cal.App.4th 396, 403 [65 Cal.Comp.Cases 264].) Substantial justice is “[j]ustice fairly administered according to the rules of substantive law, regardless of any procedural errors not affecting the litigant’s substantive rights; a fair trial on the merits.” (Black’s Law Dictionary (7th ed. 1999).)

All parties to a workers’ compensation proceeding retain the 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 is “. . . one of ‘the rudiments of fair play’ assured to every litigant . . .” (*Id.* at 158.) As stated by the California Supreme Court in *Carstens v. Pillsbury* (1916) 172 Cal. 572, “[The] commission, . . . must find facts and declare and enforce rights and liabilities, -- in short, it acts as a court, and it must observe the mandate of the constitution of the United States that this cannot be done except after due process of law.” (*Id.* at 577.)

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. (See *Gangwish v. Workers’ Comp. Appeals Bd.* (2001) 89 Cal.App.4th 1284, 1295 [66 Cal. Comp. Cases 584]; *Rucker, supra*, at 157-158 citing *Kaiser Co. v. Industrial Acci. Com. (Baskin)* (1952) 109 Cal.App.2d 54, 58 [17 Cal.Comp.Cases 21]; *Katzin v. Workers’ Comp. Appeals Bd.* (1992) 5 Cal.App.4 703, 710 [57 Cal.Comp.Cases 230].)

“It is the policy of the law to favor, whenever possible, a hearing on the merits. Appellate courts are much more disposed to affirm an order when the result is to compel a trial on the merits than when the default judgment is allowed to stand. Therefore, 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.” (*Fox v. Workers’ Comp. Appeals Bd.* (1992) 4 Cal.App.4th 1196, 1205-1206 [57 Cal. Comp. Cases 149].)

Pursuant to WCAB Rule 10620: “Any document that a party proposes to offer into evidence at a trial shall be filed with the Workers’ Compensation Appeals Board at least 20 days prior to the trial unless otherwise ordered by the Workers’ Compensation Appeals Board.” (Cal. Code Regs., tit. 8, § 10620.) While the rule is important and should be followed, the WCJ must

adequately consider a party's request for relief from what would otherwise be a default judgment absent the admission of evidence. Given that lien claimant was not served with the minutes of hearing, which set this matter for trial, it would appear that the principles of equity, due process, and achieving substantial justice favor granting lien claimant's request for relief from default.

The rule requires parties to file exhibits 20 days in advance of trial, unless ordered otherwise. Parties should consider the ramifications of their failure to comply with the rule, which could include sanctions and/or costs to an opposing party. There may be cases where a party's violation of WCAB Rule 10620 warrants the exclusion of evidence, however, in such cases the court must create an adequate record supporting such a result.

Accordingly, as our Decision After Reconsideration we rescind the May 16, 2022 F&O and return this matter to the trial level for further proceedings.

For the foregoing reasons,

IT IS ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the Findings and Order issued on May 16, 2022, by the WCJ, is **RESCINDED** and that this matter is **RETURNED** to the trial level for further proceedings.

WORKERS' COMPENSATION APPEALS BOARD

/s/ PATRICIA A. GARCIA, DEPUTY COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ JOSÉ H. RAZO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

February 11, 2026

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

**GREGORY MEDINA
PAPERWORK & MORE
MATIAN LAW GROUP**

EDL/mt

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