

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

**JOSUE BARRIOS, *Applicant***

**vs.**

**NAGATOSHI PRODUCE USA, INC.;**  
**TRUCK INSURANCE EXCHANGE, *Defendants***

*Lien Claimants and Real Parties in Interest:*  
**Tri-County Medical Group, Inc.; Tri-City Health Group, Inc.;**  
**Komberg Chiropractic; Edward Komberg, D.C.**

**Adjudication Number: SAU9000031**  
**Van Nuys District Office**

**OPINION AND ORDERS**  
**DENYING PETITION FOR DISQUALIFICATION;**  
**DISMISSING PETITION FOR RECONSIDERATION;**  
**GRANTING PETITION FOR REMOVAL AND**  
**DECISION AFTER REMOVAL**

Lien claimants and real parties in interest (lien claimants) seek to disqualify workers' compensation administrative law judge (WCJ) Tammy Homen from serving as the assigned judge in this consolidated matter based on bias and an undisclosed conflict of interest because her husband, Norman Homen, may become a material witness in this consolidated matter given that he is a workers' compensation applicant's attorney who previously referred patients to lien claimants and previously had social and industry interactions with lien claimant Komberg.

WCJ Homen filed a Report and Recommendation on Petition for Disqualification (Report), wherein she recommends denial given that neither she nor her husband, Norman Homen, has any financial interest in lien claimants' businesses; is involved in any court proceedings involving lien claimants; received money from lien claimants; and/or are shareholders or employees of lien claimants. Further, WCJ Homen states that she lacks knowledge of her husband's business; does not engage in or with his business; lacks knowledge of where his clients may be referred; and, lacks knowledge about whether any of his clients have cases in this consolidated matter. WCJ Homen also recommends denial as lien claimants did not and could not state facts to support bias

and because she has literally had no opportunity to express any opinion or belief on the merits involved as she was just assigned this matter. Finally, WCJ Homen points out that the workers' compensation community is a small one, and merely attending industry and social events in the workers' compensation community would essentially disqualify most of the WCJs in the system from hearing any case.

We have reviewed the record in this consolidated matter, the allegations of the Petition for Disqualification and the contends of the Report. Based on the Report which we adopt and incorporate herein, we deny the Petition for Disqualification.

Lien claimants also seek reconsideration of the Order of Consolidation, Designation of Master File, and Notice of Hearing (Consolidation Order) issued by Presiding WCJ Jeffrey Marrone (PWCJ Marrone) on October 24, 2025. The Consolidation Order ordered consolidation and the stay of all lien claimants' liens pursuant to Rule 10396 (Cal. Code Regs., tit. 8, § 10396) of several hundred existing cases<sup>1</sup> for purposes of discovery based upon "good cause shown, and pursuant to delegated authority from the Chief Judge of the Division of Workers' Compensation..." (Consolidation Order.) Good cause was found by PCWJ Marrone in "the complexity of the claims and issues" set forth in the Petition for Consolidation and Stay of Liens (Consolidation Petition) filed by defendant Farmers Insurance Exchange (Farmers), as well as based on review of multiple petitions for joinder and lien claimants' objections. (*Id.*) PWCJ Marrone generally identified the "common issues of law and fact" in the hundreds of cases joined for consolidation as whether patients were referred to lien claimants and/or whether lien claimants referred patients in violation of Labor Code<sup>2</sup> sections 139.2, 139.32, and/or 3215, and/or whether lien claimants issued bills and/or reports containing material misrepresentations in violation of section 3820. (*Id.*) WCJ Tammy Homen was designated as the assigned judge for purposes of the consolidation, and counsel for Farmers was designated as liaison counsel for the consolidated proceedings.

Lien claimants contend that the Consolidation Order was issued without any findings of fact to support the orders and in violation of Rule 10396, subdivision (a)(3), which requires consideration of the "potential prejudice to any party, including but not limited to whether granting

---

<sup>1</sup> The cases joined for consolidation were listed only by adjudication number in an Attachment A to the Consolidation Order, and without reference to the name of the parties or carriers involved; without identifying the specific lien(s), if any, filed by lien claimants in those cases; and, without identifying the bills and/or reports issued by lien claimants, if any, in those cases.

<sup>2</sup> All further references are to the Labor Code unless otherwise noted.

consolidation would significantly delay the trial of any of the cases involved.” (Cal. Code Regs., tit. 8, § 10396, subd. (a)(3)); and, that there is no causal connection established in the record between any of the hundreds of liens identified in Attachment A to the Consolidation Order and the allegations of Farmers’ Consolidation Petition.

The carriers in this consolidated proceeding filed an Answer to Komberg Petition for Reconsideration (Answer). The PWCJ filed a Report and Recommendation on Reconsideration/Removal (Confirmation of Transmittal) (Report), recommending that the lien claimants’ petition be treated as a petition for removal and that removal be denied.

We have reviewed the record in this consolidated proceeding, the allegations of the Petition for Reconsideration, the Answer, and the contents of the Report. For the reasons stated below, we treat the petition as a petition for removal and therefore dismiss the petition as one for reconsideration, grant removal, and as our decision after removal, return this matter to the trial level for further proceedings consistent with our decision.

## I.

Former Labor Code 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) 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 November 19, 2025, and 60 days from the date of transmission is Sunday, January 18, 2026. The next business day that is 60 days from the date of transmission is Monday, January 19, 2026. (See Cal. Code Regs., tit. 8, § 10600(b).)<sup>3</sup> This decision is issued by or on Monday, January 19, 2026, 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 November 19, 2025, and the case was transmitted to the Appeals Board on November 19, 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 November 19, 2025.

## II.

A petition for reconsideration is only properly taken from a “final” order, decision, or award. (Lab. Code, §§ 5900(a), 5902, 5903.) “An order, decision, or award of the WCAB or workers’ compensation judge is final for purposes of a petition for reconsideration where it determines any substantive right or liability of those involved in the case.” (*Rymer v. Hagler* (1989) 211 Cal. App. 3d 1171, 1180; see *Safeway Stores, Inc. v. Workers’ Comp. Appeals Bd. (Pointer)*

---

<sup>3</sup> WCAB Rule 10600(b) (Cal. Code Regs., tit. 8, § 10600(b)) states that, “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.”

(1980) 104 Cal. App. 3d 528, 534–535 [45 Cal.Comp.Cases 410].) In other words, an order is final when it determines a “threshold” issue fundamental to the claim for benefits. (*Maranian v. Workers’ Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1070 [65 Cal.Comp.Cases 650].)

Interlocutory procedural or evidentiary decisions, entered in the midst of the workers’ compensation proceedings, are not considered “final” orders. (*Maranian, supra*, 81 Cal.App.4th at p. 1075; *Rymer, supra*, 211 Cal.App.3d at p. 1180.) As further explained in *Maranian*:

A threshold issue is an issue that is basic to the establishment of the employee’s rights to benefits, such as the territorial jurisdiction of the Board, the existence of the employment relationship, and statute of limitations issues. Likewise, the term final order includes orders dismissing a party, rejecting an affirmative defense, granting commutation, terminating liability, and determining whether the employer has provided compensation coverage.

(*Maranian, supra*, 81 Cal.App.4th at 1075.)

Here, the Consolidation Order is not a final order as it requires further litigation of discovery issues which are at the heart of the consolidation, and therefore does not “avoid the necessity of further litigation...” (*Capital Builders Hardware, Inc. v. Workers’ Comp. Appeals Bd. (Gaona)* (2016) 5 Cal.App.5th 658, 662 citing *Pointer, supra*, 104 Cal.App.3d at p. 534.)

Accordingly, we dismiss the petition as one for reconsideration because the Discovery Order is not a final order, decision or award, and treat the petition as one for removal of the Consolidation Order.

### III.

Removal is an extraordinary remedy rarely exercised by the Appeals Board. (*Cortez v. Workers’ Comp. Appeals Bd.* (2006) 136 Cal.App.4th 596, 600, fn. 5 [71 Cal.Comp.Cases 155, 157, fn. 5]; *Kleemann v. Workers’ Comp. Appeals Bd.* (2005) 127 Cal.App.4th 274, 281, fn. 2 [70 Cal.Comp.Cases 133, 136, fn. 2].) The Appeals Board will grant removal only if the petitioner shows that substantial prejudice or irreparable harm will result if removal is not granted. (Cal. Code Regs., tit. 8, § 10843(a); see also *Cortez, supra*; *Kleemann, supra*.) Also, the petitioner must demonstrate that reconsideration will not be an adequate remedy if a final decision adverse to the petitioner ultimately issues. (Cal. Code Regs., tit. 8, § 10843(a).)

Even though removal of interlocutory decisions is not required, certain interlocutory decisions may be difficult to undo. The more likely a decision cannot be undone, the more likely

that decision will result in substantial prejudice or irreparable harm and a timely petition for removal should be filed. However, where a decision can be addressed adequately on reconsideration, parties need not seek removal to preserve their objections.

Here, lien claimants contend that the PWCJ issued the Consolidation Order of hundreds of cases without providing findings of fact to causally connect any of those cases with the allegations of Farmers' Consolidation Petition or the other carriers' joinder petitions, which were all granted based on good faith in the Consolidation Order. This is essentially an allegation that the Consolidation Order violates lien claimants' right to due process and specifically, a fair hearing. This contention has merit on removal.

Section 5313 requires that after a matter is submitted, and together with findings of fact, orders, and/or awards, a WCJ "shall" serve "a summary of the evidence received and relied upon and the reasons or grounds upon which the determination was made." (Lab. Code, § 5313.) The opinion on decision must be based on admitted evidence (*Hamilton v. Lockheed Corporation* (2001) 66 Cal.Comp.Cases 473, 476 (Appeals Bd. en banc) (*Hamilton*)), 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] (*Garza*); *Le Vesque v. Workmen's Comp. Appeals Bd.* (1970) 1 Cal.3d 627 [35 Cal.Comp.Cases 16]). The WCJ's opinion on decision enables the parties to determine the basis for the WCJ's decision and makes seeking reconsideration or removal more meaningful. (*Hamilton, supra*, 66 Cal.Comp.Cases at p. 476.)

The PWCJ did not issue an opinion on decision with the Consolidation Order. However, a WCJ's report may cure any technical or alleged defect in satisfying the requirements of section 5313. (*City of San Diego v. Workers' Comp. Appeals Bd. (Rutherford)* (1989) 54 Cal.Comp.Cases 57 (writ den.); *Smales v. Workers' Comp. Appeals Bd.* (1980) 45 Cal.Comp.Cases 1026 (writ den.)) In the Report, the PWCJ states the following:

Despite the assertions of Lien Claimant Counsel, the Court did consider the 5 factors of Cal. Code Regs., tit. 8, § 10396(a) in making its decision. There are common issues of law and fact in the identified cases and the issues set forth above are such that a consolidation and stay of the cases is required set forth as:  
1.Whether patients were referred to Lien Claimants in violation of Labor Code Section 139.3,Labor Code Section 3215 and Labor Code Section 139.32; and,

- 2.Whether Lien Claimants referred patients to ancillary service providers in violation of Labor Code Section 139.3, Labor Code Section 3215 and Labor Code Section 139.32; and,
- 3.Whether Lien Claimants bills and reports contain material misrepresentations in violation of Labor Code Section 3820.

The law regarding the issues is the same in each of the cases. The issues are complex, as they appear to involve extensive discovery and factual and legal analysis that is not ordinarily within the day to day decision making of a WCJ. Prejudice to the parties was considered and none was apparent as this is not a final order adjudicating the merits of the filed liens. Further, the number of cases and liens has become substantial, such that, should discovery be required for each separate case number, the costs to the parties, both lien claimant and carriers, as well as the time and resources of the WCAB, would be so much more substantial.

(Report, pp. 5-7.)

Unfortunately, the Report in this matter does not cure the lack of an opinion on decision. We do not agree with the PWCJ that no opinion on decision and/or findings of facts are necessary to support an order of consolidation for purposes of discovery pursuant to Rule 10396, and that summary conclusions regarding common issues of law and fact are sufficient to provide a meaningful review on removal. (See *Kenney v. Seguoyah, Inc.*, 2023 Cal.Wrk.Comp. P.D. LEXIS 37, \*3 [deficiency in the Consolidation Order cured by Report which “detailed the procedural and substantive grounds for consolidating and temporarily staying the liens”].) In the Report, the PWCJ does not identify through citation to law or facts the specific common questions of law and fact identified in this matter which necessitate the consolidation of hundreds of lien claims. The PWCJ simply tells us that they exist.

We do not agree that section 5313 and/or *Hamilton* do not apply to orders of consolidation under section 10396, given that the matter of consolidation was very plainly submitted by the parties for hearing and determination as evidenced by Farmers’ Consolidation Petition, the various petitions for joinder by other carriers, and lien claimants’ multiple oppositions to all of these petitions. This matter went to hearing on at least three separate occasions, but there were never any issues identified for determination even though there were multiple petitions (and opposition) set for hearing. (See Minutes of Hearing and Summary of Evidence (MOH/SOE), February 18, 2025, May 20, 2025, September 30, 2025.) There was no attempt at any of the hearings or in any of the MOH/SOE to introduce and/or admit any evidence submitted by any party to support the

*arguments* made by Farmers, the other carriers, and/or lien claimants. (*Ibid.*) Indeed, it appears that the Consolidation Order was issued here as a matter of course:

LET THE MINUTES REFLECT that, as of today, the Presiding Judge has been delegated authority to proceed with consolidation in this matter. Consolidation order will issue.

(MOH/SOE, September 30, 2025, p. 3:1-3.)

The PWCJ mentions two cases cited by Farmers in the September 30, 2025 MOH/SOE, *Kenney, supra*, and *Harvard Surgery Ctr. v. Workers' Compensation Appeals Bd. (Yero)* (2005) 70 Cal.Comp.Cases 1354. Neither *Kenney* nor *Yero* are helpful in our review of this matter on their facts. The California Compensation Cases summary in *Yero* does not give a detailed history of proceedings in that matter, and it does not appear that section 5313 or *Hamilton* were at issue; it is therefore not helpful in our review of this matter. In *Kenney*, a consolidation order was issued for the purposes of discovery *after* a previous order of consolidation had already issued pursuant to section 4615, and was issued for a very specific issue, which is precisely what is *missing* from the Consolidation Order in this case:

[W]hether or not lien claimant was “controlled” by Paul Turley (or other charged or convicted medical physician, practitioner, or provider pursuant to section 139.41, subdivision (a)(3) (section 139.41(a)(3)), thereby subjecting all liens filed by lien claimant to the automatic stay prescribed by section 4615 (common issue). This issue is common to all lien claims filed by lien claimant, regardless of when services were rendered or to whom.

(*Kenney, supra*, at \*5, footnotes omitted.)

Although the level of specificity in *Kenney* is not always possible, and good cause may be found without such a granular level of specificity, it is necessary that the trial judge affirmatively determine whether good cause exists to grant a petition to consolidate for discovery under Rule 10396. (See *Yero, supra*, 70 Cal.Comp.Cases at p. 1328.) Although we do not intend to cast aspersions on the veracity of the PWCJ when he states that good cause exists (see Consolidation Order), it is still necessary for the trial judge to “show their work” and provide the legal and factual basis for the *good cause* supporting an order of consolidation for purposes of discovery – especially an order such as this which involves not one allegation of statutory violation, but multiple violations of multiple statutes. In other words, good cause in this context must be based on something tangible that raises *specific* common questions of law and fact and not just any *potential*

question of law or fact under a list of statutes with multiple subdivisions. Otherwise, there is a real potential for abuse of the discovery process. Regardless, without the specificity of law and fact sufficient to support the good cause found by the PWCJ to consolidate hundreds of lien claims for the purpose of common discovery between these parties, there can be no meaningful review by the Appeals Board on removal. (See *Hamilton, supra*.)

Finally, we note that an order of consolidation for purposes of discovery involving lien claims *normally* acts to bifurcate the common issue(s) raised for consolidation/discovery prior to the adjudication of the merits of any individual lien claim – all of which would be separately adjudicated from the merits of any applicant’s case in chief. (See *Kenney, supra*, at \*7.) However, upon return to the trial level, we caution the court to reconsider whether any potential prejudice will inure to *the applicants* in the hundreds of cases at issue herein due to section 139.32, subdivision (g)(4). (See Report, p. 7 [“Delay of the trial of any of the underlying ADJ cases was also considered, but there is no delay because this consolidation is an SAU consolidation and the underling ADJ cases will continue independently...”].)<sup>4</sup>

**(4) Any determination regarding an employee’s eligibility for compensation shall be void if that service was provided in violation of this section.**

(Lab. Code, § 139.32, subd. (g)(4), emphasis added.)

We conclude by affirming the panel in *Kenney* that “[t]here can be no dispute that Farmers has the right to defend claims asserted by lien claimant and indeed, has the affirmative burden of proof to establish its defenses to claims filed by lien claimant. (Lab. Code, § 5705.)” (*Kenney, supra*, at \*5-6.) Our decision does not reach and is not meant as a comment on the merits of Farmers’ Consolidation Petition, the other carriers’ petitions to join, or lien claimants’ oppositions.

Accordingly, we grant removal as we cannot meaningfully assess whether good cause was established in this matter pursuant to Rule 10396. As our decision after reconsideration, we rescind the Consolidation Order and return this matter to the trial level for further proceedings consistent with this decision, Rule 10396, section 5313, and *Hamilton*. Further proceedings may include but are not limited to framing the issues presented by the parties by the pleadings already filed; identifying and ruling on evidence related to *those* issues; and, issuing any order resulting from

---

<sup>4</sup> Although the PWCJ alleges that lien claimants have delayed the proceedings by failing to appear at the initial hearing set for January 7, 2025, there was good cause shown to lift the notice of intent to dismiss previously issued for that failure to appear. (MOH/SOE, February 18, 2025, pp. 2:24-3:2.) We therefore cannot consider lien claimants failure to appear on January 7, 2025 as an attempt to delay in bad faith.

such proceedings *with* an opinion on decision setting forth the *specific* grounds supporting good cause for the consolidation.

For the foregoing reasons,

**IT IS ORDERED** that lien claimant's Petition for Disqualification of workers' compensation administrative law judge Tammy Homen is **DENIED**.

**IT IS FURTHER ORDERED** that lien claimants' Petition for Reconsideration of the Order of Consolidation, Designation of Master File, and Notice of Hearing issued by Presiding Workers' Compensation Administrative Law Judge Jeffrey Marrone on October 24, 2025 is **DISMISSED**.

**IT IS FURTHER ORDERED** that lien claimants' Petition for Removal of the Order of Consolidation, Designation of Master File, and Notice of Hearing issued by Presiding Workers' Compensation Administrative Law Judge Jeffrey Marrone on October 24, 2025 is **GRANTED**.

**IT IS FURTHER ORDERED** as the Decision after Removal of the Workers' Compensation Appeals Board that the Order of Consolidation, Designation of Master File, and Notice of Hearing issued by Presiding Workers' Compensation Administrative Law Judge Jeffrey Marrone on October 24, 2025 is **RESCINDED** and this matter is **RETURNED** to the trial level for further proceedings consistent with this decision.

**WORKERS' COMPENSATION APPEALS BOARD**

/s/ KATHERINE A. ZALEWSKI, CHAIR

**I CONCUR,**

/s/ JOSEPH V. CAPURRO, COMMISSIONER

/s/ PAUL F. KELLY, COMMISSIONER



**DATED AND FILED AT SAN FRANCISCO, CALIFORNIA**

**January 20, 2026**

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

**MOKRI VANIS & JONES, LLP  
PACHECO & NEACH, P.C.**

**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*

**CASE NUMBER: SAU9000031 (ADJ9000031)**

**REPORT AND RECOMMENDATION ON LIEN CLAIMANT'S PETITION FOR  
DISQUALIFICATION OF WORKERS' COMPENSATION JUDGE AND LC §5909(B)**  
**NOTICE AND NOTICE OF TRANSMITTAL**

**I.**

**INTRODUCTION**

1.	<b>Applicant's Occupation:</b>	<b>Packing/Forklift</b>
	<b>Applicant's Age:</b>	<b>55 years old</b>
	<b>Date of Injury:</b>	<b>August 1, 2007</b>
	<b>Parts of Body Inured:</b>	<b>Hernia (Admitted Injury)</b>
2.	<b>Identity of Petitioner:</b>	<b>Lien Claimant filed the Petition</b>
	<b>Timeliness:</b>	<b>Yes</b>
	<b>Verification:</b>	<b>Yes</b>
3.	<b>Upcoming Trial/Hearing:</b>	<b>February 18, 2026</b>
4.	<b>Lien Claimant's Contentions:</b>	<b>Lien claimant seeks disqualification of WCJ for cause.</b>

**II.**

**FACTS**

Lien Claimant Tri-County Medical Group Inc.; Komberg Chiropractic; Tri-City Health Group Inc; Edward Komberg (hereinafter referred to as "Lien Claimant") filed a Petition for Disqualification per CCR title 8 Sec. 9721.11 and Sec. 9721.12 and CCP Sec. 641 on November 10, 2025, (hereinafter the "Petition").

Presiding Judge Jeffrey Marrone held a Status Conference on September 30, 2025, via Court Call. The Status Conference continued to February 18, 2026, at 10:30 a.m. before me, Judge Homen. I was not present on September 30, 2025, and had no knowledge of the case until the Petition for Disqualification was filed.

An Order of Consolidation and Designation of Master File and Notice of Hearing issued October 23, 2025, by Special Adjudication Unit Presiding Workers' Compensation

Judge Jeffrey Marrone. On November 10, 2025, Lien Claimant filed a Petition for Disqualification.

Lien Claimant alleges that I have a conflict of interest as my husband, Norman Homen, is an applicant attorney. That I have not disclosed the conflict. My husband does not have a financial interest in Lien Claimant's business. This case has yet to be heard by me. The first hearing scheduled before me is February 18, 2026, at 10:30 a.m.

### III.

#### DISCUSSION

Title 8, California Code of Regulations, Section 10960 allows a party to petition to disqualify a WCJ for cause as set out in Labor Code, Section 5311. Labor Code, Section 5311 provides[:]

“Any party to the proceeding may object to the reference of the proceeding to a particular workers' compensation judge upon any one or more of the grounds specified in Section 641 of the Code of Civil Procedure and the objection shall be heard and disposed of by the appeals board. Affidavits may be read and witnesses examined as to the objections.”

California Code of Civil Procedure, Section 641 provides:

“A party may object to the appointment of any person as referee, on one or more of the following grounds:

- (a) A want of any of the qualifications prescribed by statute to render a person competent as a juror, except a requirement of residence within a particular county in the state.
- (b) Consanguinity or affinity, within the third degree, to either party, or to an officer of a corporation which is a party, or to any judge of the court in which the appointment shall be made.
- (c) Standing in the relation of guardian and ward, conservator and conservatee, master and servant, employer and clerk, or principal and agent, to either party; or being a member of the family of either party; or a partner in business with either party; or security on any bond or obligation for either party.
- (d) Having served as a juror or been a witness on any trial between the same parties.
- (e) Interest on the part of the person in the event of the action, or in the main question involved in the action.

- (f) Having formed or expressed an unqualified opinion or belief as to the merits of the action.
- (g) The existence of a state of mind in the potential referee evincing enmity against or bias toward either party.”

Title 8 California Code of Regulations §10960

“Proceedings to disqualify a workers' compensation judge under Labor Code section 5311 shall be initiated by the filing of a petition for disqualification supported by an affidavit or declaration under penalty of perjury stating in detail facts establishing one or more of the grounds for disqualification specified in section 641 of the Code of Civil Procedure. The petition to disqualify a workers' compensation judge and any answer shall be verified upon oath in the manner required for verified pleadings in courts of record.

If the workers' compensation judge assigned to hear the matter and the grounds for disqualification are known, the petition for disqualification shall be filed not more than 10 days after service of notice of hearing or after grounds for disqualification are known.

A petition for disqualification shall be referred to and determined by a panel of three commissioners of the Appeals Board in the same manner as a petition for reconsideration”

The Petition for Disqualification fails to allege or provide any factual support for disqualification under CCP Sec. 641. Lien Claimant lists assumptions not facts, “[a] statement containing nothing but conclusions and setting forth no facts constituting a ground for disqualification may be ignored.” (*Mackie v Dyer* (1957) 154 Cal.App.2d395)

Lien Claimant asserts CCP Sec. 641(e) Norman Homen (“Mr. Homen”) does not have a financial interest in Lien Claimant’s business. Mr. Homen is not involved in any court proceedings involving Lien Claimant. Many attorneys in workers' compensation have utilized the services of Lien Claimant they also are not a party to any court actions involving Lien Claimant. Mr. Homen has not received any money from Lien Claimant, is not a shareholder or employee of Lien Claimant. Mr. Homen is not a material witness to Lien Claimant. If Mr. Homen was called as a witness, I would recuse myself.

Disqualification under section 641 is that the WCJ has demonstrated "[t]he existence of a state of mind ... evincing enmity against or bias toward either party." I have not "formed or expressed an unqualified opinion or belief as to the merits of the action" (CCP Sec. 641(f)) I am not biased towards either party. I have no knowledge of this case; I am only aware of the fact that a Petition to Disqualify was filed by Lien Claimant.

The undersigned has no knowledge of either party's business in this matter. I do not engage in Mr. Homen's business. I am unaware of whom Mr. Homen refers his clients to for medical appointments. I am unaware of the cases that may have been referred to Lien Claimant or if those cases are a party to this specific matter. I do not work in Mr. Homen's office. I do not answer Mr. Homen's phone calls. I am not an employee of Mr. Homen. Lien Claimant's subjective perception of bias is not a basis for disqualification. (*Haas v. County of San Bernardino* (2002) 27 Cal.4th 1017, 1034; *Robbins v. Sharp Healthcare* (2006) 71 Cal.Comp.Cases 1291, 1310–1311 (Significant Panel Decision).)

The workers' compensation industry is a small community. I have attended many functions and education seminars with practitioners in the system. Should we follow Lien Claimant's logic then there would be no Judge that who could hold court before any defendant, applicant counsel or lien claimant.

CCR Sec. 9721.11

A judge shall disclose to all parties or attorneys in a case, at the time the judge first becomes aware of the existence of the facts, any and all of the following:

- (f) Any information that the workers' compensation administrative law judge believes would be relevant to the issue of disqualification, such that a person aware of the facts might reasonably entertain a doubt as to the workers' compensation administrative law judge's ability to be impartial.
- (h) Any situation known to the judge, disclosure of which is required by the Code of Judicial Ethics.

Lien Claimant raises CCR 9721.11, that I failed to disclose a potential conflict of interest. The truth of the matter asserted is that the parties have not appeared before me. The matter is set for conference on February 18, 2026. I was unaware of any facts in this case or the parties involved until Lien Claimant filed the Petition for Disqualification. Therefore, I have not failed to disclose any potential conflict.

CCR Sec. 9721.12(a)(7)

(7) The judge, the judge's spouse, or minor child of the judge, personally or as a fiduciary, has a financial interest in the subject matter in a proceeding or in a party to the proceeding, or has a relationship of director, advisor, or active participant to a party to the proceeding.

Mr. Homen does not have a financial interest in Lien Claimant's business. As stated above, Mr. Homen is not an employee or shareholder of Lien Claimant. Many attorneys have sent patients to Lien Claimant.

I am not biased against Lien Claimant. I have not expressed any opinion or belief in the merits of any issue in contention in this matter. I do not have personal knowledge of disputed evidentiary facts concerning the proceedings.

#### IV.

#### **RECOMMENDATION**

For the foregoing reasons, I recommend that the Petition for Disqualification filed by Lien Claimants on November 10, 2025, be denied.

Date: November 19, 2025

Tammy Homen  
Workers' Compensation Judge

This case was transmitted to the Recon Unit on November 19, 2025.