

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

KIMBERLY MOUA, *Applicant*

vs.

**COUNTY OF YUBA, permissibly self-insured;
administered by SEDGWICK CLAIMS MANAGEMENT SERVICES, INC., *Defendants***

**Adjudication Number: ADJ21922892
Redding District Office**

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

Applicant Kimberly Moua, in pro per, seeks reconsideration of the July 13, 2026 Order Dismissing Case, wherein the workers' compensation administrative law judge (WCJ) dismissed the instant case with prejudice because applicant could not produce evidence of a timely application for workers' compensation.

Applicant contends that she filed an Application for Adjudication on December 11, 2025, which is within one year of the December 6, 2024 letter denying applicant's claim. Applicant contends that the December 6, 2024 denial letter, not the April 16, 2024 denial letter, is the document triggering the running of the statute of limitations.

We have not received an answer from defendant County of Yuba / Sedgwick Claims Management Services, Inc. The WCJ prepared a Report and Recommendation on Petition for Reconsideration (Report), recommending that the Petition be denied.

We have considered the Petition for Reconsideration, the contents of the Report, and we have reviewed the record in this matter. For the reasons discussed below, we grant reconsideration, rescind the July 13, 2026 Order Dismissing Case, and return this matter for further proceedings.

FACTS

As the Report states:

After several months of discovery, on 11/26/2025, Applicant Moua filed a Declaration of Readiness to Proceed to hearing on the listed issues which included, compensation rate, permanent disability, rehabilitation, future treatment among other issues. Hearing was scheduled for 1/05/2026; however, no Defense Representative appeared at that hearing. The hearing was continued to a Mandatory Settlement Conference with then current adjuster being ordered to appear to the next hearing. At the 2/05/2026 hearing, the parties, which included Defense Counsel Ira Clary, advised the undersigned that a Pre-Trial Conference Statement would be submitted. The Employment Development Department Representative, Millie Cruz, advised the Court that the outstanding EDD [footnote omitted] lien was being deferred. It is noted that both Information and Assistance Officer, Brandy Lockhart, also appeared. That hearing was continued to a trial setting.

The Pre-Trial Conference statement noted, on the Issues page, that a compensable Threshold issue of the Statute Of Limitations was being raised by Defendant. Other issues partially involving admissibility of evidence were listed in the event Applicant's claim was not barred by the Statute of Limitations. Given that the Statute of Limitations was being listed as a preliminary issue, the initial trial was scheduled on that sole issue.

...

Defendant's position under Labor Code §5405 was that [] given Applicant's closing date of her continuous trauma claim of 1/08/2024, that Applicant had only until 1/08/2025 to file her Application For Adjudication of Injury.

The Workers' Compensation Appeals Board contains an online "FileNet" section in which parties file all documents pertinent to the case. To this day, there is no evidence that a timely Application was filed on or before 11/08/2025. The sole Application For Adjudication appearing in FileNet as of 7/22/2026 remains the Application entered under the date of 12/11/2025. (Report, pp. 2-3.)

DISCUSSION

I.

Petitions for reconsideration filed on or after July 14, 2026 are subject to Labor Code¹ section 5909, which states that:

¹ All subsequent references are to the Labor Code unless otherwise indicated.

(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 July 24, 2026, and 60 days from the date of transmission is September 22, 2026. This decision is issued by or on September 22, 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 shall be notice of transmission.

Here, according to the proof of service for the Report, the Report was served on July 24, 2026, and the case was transmitted to the Appeals Board on July 24, 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 July 24, 2026.

II.

Section 5313 requires the WCJ to,

. . . make and file findings upon all facts involved in the controversy and an award, order, or decision stating the determination as to the rights of the parties. Together with the findings, decision, order or award there shall be served upon all the parties to the proceedings a summary of the evidence received and relied upon and the reasons or grounds upon which the determination was made. (§ 5313.)

When a case proceeds to trial, WCAB Rule 10787(c) provides:

(c) Minutes of hearing and summary of evidence shall be prepared at the conclusion of each trial and filed in the record of proceedings. They shall include:

- (1) The names of the commissioners, deputy commissioner or workers' compensation judge, reporter, the parties present, attorneys or other agents appearing therefor and witnesses sworn;
 - (2) The place and date of said trial;
 - (3) The admissions and stipulations, the issues and matters in controversy, a descriptive listing of all exhibits received for identification or in evidence (with the identity of the party offering the same);
 - (4) The disposition, and if the disposition is an order taking off calendar or a continuance, the reasons for the order which shall include the time and action, if any, required for submission;
 - (5) A summary of the evidence required by Labor Code section 5313 that shall include a fair and unbiased summary of the testimony given by each witness;
 - (6) If motion pictures are shown, a brief summary of their contents or a stipulation that parties waive a summary; and
 - (7) A fair statement of any offers of proof.
- (Cal. Code Regs., tit. 8, § 10787(c).)

Section 5313 requires the WCJ to state the “reasons or grounds upon which the [court’s] determination was made.” (See also *Blackledge v. Bank of America* (2010) 75 Cal.Comp.Cases 613, 621-22.) The WCJ’s opinion on decision “enables the parties, and the Board if reconsideration is sought, to ascertain the basis for the decision, and makes the right of seeking reconsideration more meaningful.” (*Hamilton v. Lockheed Corporation (Hamilton)* (2001) 66 Cal.Comp.Cases 473, 476 (Appeals Board en banc), citing *Evans v. Workmen’s Comp. Appeals Bd.* (1968) 68 Cal.2d 753, 755 [33 Cal.Comp.Cases 350, 351].) A decision “must be based on admitted evidence in the record” (*Hamilton*, at p. 478) and must be supported by substantial evidence. (§§ 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. Workers' 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 p. 475.)

The WCJ is charged with preparing the minutes of hearing and a summary of evidence at the conclusion of each hearing. (Cal. Code Regs., tit. 8, § 10787; *Hamilton, supra*, at p. 476.) The minutes of hearing and summary of evidence must include all interlocutory orders, admissions and stipulations, the issues and matters in controversy, a descriptive listing of all exhibits received for identification or in evidence, the disposition of the matter, and a fair and unbiased summary of the testimony given by each witness. (Cal. Code Regs., tit. 8, § 10787; *Hamilton, supra*, at p. 476.)

An adequate and complete record is necessary to understand the basis for the WCJ's decision. (Lab. Code, § 5313; see also Cal. Code Regs., tit. 8, § 10787.) "It is the responsibility of the parties and the WCJ to ensure that the record is complete when a case is submitted for decision on the record. At a minimum, the record must contain, in properly organized form, the issues submitted for decision, the admissions and stipulations of the parties, and admitted evidence." (*Hamilton, supra*, 66 Cal.Comp.Cases at p. 475.) The WCJ's decision must "set[] forth clearly and concisely the reasons for the decision made on each issue, and the evidence relied on," so that "the parties, and the Board if reconsideration is sought, [can] ascertain the basis for the decision[.] ... For the opinion on decision to be meaningful, the WCJ must refer with specificity to an adequate and completely developed record." (*Id.* at p. 476 (citing *Evans v. Workmen's Comp. Appeals Bd.* (1968) 68 Cal. 2d 753, 755 [33 Cal.Comp.Cases 350] [a full and complete record allows for a meaningful right of reconsideration]; *Lewis v. Arlie Rogers & Sons* (2003) 69 Cal.Comp.Cases 490, 494, emphasis in original ["decision [must] be based on an ascertainable and adequate record," including "an *orderly identification* in the record of the evidence submitted by a party; and *what evidence is admitted or denied admission*."].) "An organized evidentiary record assists an arbitrator in rendering a decision, informs the parties what evidence will be utilized by the arbitrator in making a determination, preserves the rights of parties to object to proffered evidence, and affords meaningful review by the Board, or reviewing tribunal." (*Id.*)

Here, the record does not contain the minutes of the trial proceedings and we cannot discern the place and date of said proceedings, nor who was present. (Cal. Code Regs., tit. 8, § 10787(c)(1)-

(2.) There is no record reflecting the admissions and stipulations, the issue(s) presented, nor any descriptive listing of all exhibits received for identification or in evidence. (Cal. Code Regs., tit. 8, § 10787(c)(3).) There are Minutes of Hearing dated July 9, 2026, the same date the Order Dismissing Case was signed by the WCJ (served on July 13, 2026), but inexplicably the Minutes of Hearing states that a joint request to take the matter off calendar was granted (Minutes of Hearing dated July 9, 2026) when the Order Dismissing Case indicates that the parties went to trial on the threshold issue of the statute of limitations. For these reasons, we are unable to conduct a meaningful review of the petition or render a decision until we have received a complete record.

Nevertheless, we point out that section 5401(d) provides that, “Filing of the claim form [for workers’ compensation] with the employer shall toll, for injuries occurring on or after January 1, 1994, the time limitations set for in Sections 5405 and 5406 until the claim is denied by the employer or the injury becomes presumptively compensable pursuant to Section 5402.” (§ 5401(d).)² Although we could not find a claim form in the record, we note that the April 16, 2024 and December 16, 2024 denial letters references applicant’s claim for workers’ compensation. More concerning is applicant’s allegations that:

Clarification regarding the 04/16/2024 correspondence

On April 2, 2024, the County of Yuba Human Resources Department confirmed in writing that Applicant’s claim “has not been denied,” and instructed Applicant to attach the delay letter to the QME request because no denial letter existed. Sedgwick likewise provided only a delay letter and a fresh QME form, instructing Applicant to resubmit the QME packet. These communications confirm that the April 16, 2024 correspondence was not a liability denial under Labor Code §§ 5402 or 5405, and that Applicant could not legally initiate the QME process with a denial letter because none had been issued.

Clarification regarding the later-generated 04/16/2024 “denial letter”

After Applicant informed Sedgwick on April 2, 2024 that the QME process required a liability denial letter, Sedgwick did not provide a denial but instead issued a delay letter and instructed Applicant to resubmit the QME packet. Applicant mailed the QME request with the delay letter, and the Medical Unit later returned the packet because no denial letter existed. Only after this occurred

² The Report suggests that applicant had until January 8, 2025 to file an Application for Adjudication. (Report p. 3.) According to the Report, January 8, 2025 is one year from applicant’s last date of alleged cumulative trauma period. Section 5405 provides a one year statute of limitations from the date of injury, the expiration of payments, or the last date which benefits were provided. (§ 5405.) Section 5412 provides that the date of injury for cumulative injuries is the date which the employee first suffered disability therefore and either knew, or reasonably should have known, that the disability was caused by his or her employment. (§ 5412.) The date of injury for cumulative injuries is not the last date of the cumulative trauma period.

did Sedgwick generate a document labeled as a “denial letter” dated April 16, 2024, despite both HR and Sedgwick having already confirmed in writing that the claim “has not been denied.” (Petition, p. 4.)

As discussed above, there are no minutes of hearing and summary of evidence to evaluate applicant’s allegations in the Petition, and we cannot discern whether testimony was taken at trial under penalty of perjury and / or whether there is other controverted testimony on the same issue. We note that in *Bracy v. State of California* (2024) 90 Cal.Comp.Cases 317 [2024 Cal. Wrk. Comp. P.D. LEXIS 355], a different Workers’ Compensation Appeals Board panel with two of the same commissioners as the panel in the instant case, concluded that an employer and its insurer are estopped from claiming the statute of limitations defense when their actions induce the employee from filing an application with the Workers’ Compensation Appeals Board (WCAB) and create doubt as to the denial of the employee’s claim.

An employer and its insurer are estopped to plead the statute of limitations when the actions or misrepresentations of either induce the employee to refrain from filing a claim until after the statute of limitations has run. (*Benner v. Industrial Acc. Com.* (1945) 26 Cal.2d 346, 349 [159 P.2d 24, 10 Cal. Comp. Cases 110]; *Industrial Indem. Co. v. Ind. Acc. Com. (Varela)* (1953) 115 Cal.App.2d 684, 689 [252 P.2d 649, 18 Cal. Comp. Cases 39].) To prove estoppel, the employee must show reliance on some act, omission, or statement of the employer or insurer. (*American Can Co. v. Indus. Acc. Com. (Wright)* (1962) 204 Cal.App.2d 276, 278 [22 Cal. Rptr. 164, 27 Cal. Comp. Cases 137].)

(*McGee St. Productions/Hallmark Entm't v. Workers' Comp. Appeals Bd.* (2003) 68 Cal. Comp. Cases 708, 715 [2003 Cal. Wrk. Comp. LEXIS 342])

Given applicant’s allegations above, estoppel might be an issue. But, again, there are no minutes of hearing and summary of evidence here, and in fact, no evidence at all was admitted into the record for us to determine the issues of the statute of limitations and estoppel.

Accordingly, we grant reconsideration and rescind the July 13, 2026 Order Dismissing Case and return this matter to the trial level for further proceedings.

For the foregoing reasons,

IT IS ORDERED that applicant Kimberly Moua's Petition for Reconsideration of the July 13, 2026 Order Dismissing Case is **GRANTED**.

IT IS FURTHER ORDERED, as the Decision After Reconsideration of the Workers' Compensation Appeals Board, that the July 13, 2026 Order Dismissing Case is **RESCINDED** and the matter is **RETURNED** to the trial level for further proceedings.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ PAUL F. KELLY, COMMISSIONER

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

SEPTEMBER 18, 2026

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

**KIMBERLY MOUA
LENAHAN LEE SLATER & PEARSE LLP**

LSM/ara

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