

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

MARGARITA GARCIA, *Applicant*

vs.

**CR LAURENCE COMPANY, INC.; CHUBB GROUP OF INSURANCE COMPANIES,
administered by SEDGWICK CLAIMS MANAGEMENT SERVICES, INC., *Defendants***

**Adjudication Numbers: ADJ9213906; ADJ9920273
Van Nuys District Office**

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

Supreme Copy Service (cost petitioner) seeks reconsideration of the Findings of Fact and Orders (F&O), issued by the workers' compensation administrative law judge (WCJ) on May 11, 2026, wherein the WCJ found in pertinent part that: a valid medical-legal dispute existed at the time the cost petitioner's services were procured; the records were reasonably necessary to resolve a valid medical-legal dispute; and the fee for the services shall be determined by fee schedule. The WCJ ordered that the bills shall be referred to bill review per Labor Code¹ section 4622.

Cost petitioner contends that the WCJ failed to rule on the admissibility of their Exhibits 32 through 36 which were marked for identification only. Cost petitioner further contends that the WCJ erroneously ordered payment pursuant to the copy service fee schedule and that the WCJ failed to award statutory penalty and interest under section 4622(a)(1) and costs and sanctions under section 5813 and WCAB Rule 10421 (Cal. Code Regs., tit. 8, § 10421) as defendant failed to show that it issued timely and compliant objections or explanations of review (EORs) under section 4622(a)(1) and AD Rule 9794 (Cal. Code Regs., tit. 8, § 9794) and WCAB Rule 10786 (Cal. Code Regs., tit. 8, § 10786).

¹ All statutory references are to the Labor Code unless otherwise stated.

We have not received an answer from defendant. The WCJ issued a Report and Recommendation on Petition for Reconsideration (Report) in response to cost petitioner's Petition, recommending that it be granted in part, to amend the F&O to admit cost petitioner's Exhibits 32, 33 and 36 into evidence, and exclude cost petitioner's Exhibits 34 and 35, and otherwise deny the Petition.

We have considered the allegations in the Petition, and the contents of the Report with respect thereto. Based on our review of the record, and as discussed below, we will grant cost petitioner's Petition for Reconsideration, and we will affirm the WCJ's decision, except that we will amend it to find that defendant did not meet its burden to show that it issued timely and compliant objections or EORs in response to cost petitioner's invoices and that under section 4622(a) and WCAB Rule 10786(e), cost petitioner is entitled to payment, penalties, and interest, and to admit cost petitioner's Exhibits 32-36 into evidence. We will also defer the issue of defendant's liability for sanctions, fees, and costs under WCAB Rule 10786(i) and return the matter to the WCJ for further proceedings consistent with this decision.

BACKGROUND

In his Report, the WCJ offered the following facts:

A DWC-1 claim form was filed on or about 11/25/2013. The Application was filed 2/7/2014. A delay was issued by the Defendant on 11/25/2013 (Ex. 38). The Defendant filed a denial by way of Answer on 2/7/2014 (Ex. 41). During 2014 about 16 subpoenas for records were issued by Applicant through the services of the cost petitioner. One was for the employer. The others were all medical.

The case was settled on or about 4/16/2015 (Ex. 42). According to the document it appears that Defendant admitted the injury in December 2014 based upon a QME report that is not in evidence, nor is it in EAMS.

(Report, at pp. 1-2.)

On April 9, 2025, cost petitioner filed a Petition for Determination of Medical-Legal Expense Dispute per 8 CCR § 10786(b).

On April 22, 2026, the matter proceeded to trial on the issues of 1) Cost Petition of Supreme Copy Service and 2) CCR 9982(d)(3) [Allowable Services].

It is from the corresponding decision that cost petitioner seeks reconsideration.

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 12, 2026, and 60 days from the date of transmission is August 11, 2026. This decision is issued by or on August 11, 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 by the WCJ, the Report was served on June 12, 2026, and the case was transmitted to the Appeals Board on June 12, 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 12, 2026.

II.

Turning to the merits, we first address the admissibility of cost petitioner's Exhibits 32-36 which were marked at time of trial as follows,

COST PETITIONER'S EXHIBIT 32: (Marked for I.D. only.)
Cost Petitioner's fee breakdown sheet, dated 4/1/09.

COST PETITIONER'S EXHIBIT 33: (Marked for I.D. only.)
Supreme Copy owner's declaration, dated 3/7/24.

COST PETITIONER'S EXHIBIT 34: (Marked for I.D. only.)
Geographic analysis with declaration, dated 11/11/22.

COST PETITIONER'S EXHIBIT 35: (Marked for I.D. only.)
Acceptance rate analysis with declaration, dated 7/30/25.

COST PETITIONER'S EXHIBIT 36: (Marked for I.D. only.)
Penalties and interest calculations, dated 7/30/25.

(Minutes of Hearing and Order of Consolidation, April 22, 2026, at p. 5:9-19.)

In his Report, the WCJ acknowledged that he erroneously failed to address the admissibility of cost petitioner's Exhibits 32-36 in his F&O, and recommended that Exhibits 32, 33 and 36 be admitted into evidence and that Exhibits 34 and 35 be excluded from evidence. We agree with the WCJ's recommendation to admit cost petitioner's Exhibits 32, 33 and 36 into evidence, but we disagree with the WCJ's recommendation to exclude cost petitioner's Exhibits 34 and 35 from evidence.

Code of Civil Procedure section 2017.010 states in part: "Unless otherwise limited by order of the court in accordance with this title, any party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action or to the determination of any motion made in that action, if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence." (Code of Civ. Proc., § 2017.010.) However, workers' compensation proceedings are not bound by the common law or statutory rules of evidence and procedure. Furthermore, it is well established that in workers' compensation proceedings there is a public policy favoring liberal pre-trial discovery that may reasonably lead to relevant and admissible evidence applicable in workers' compensation

cases. (*Allison v. Workers' Comp. Appeals Bd.* (1999) 72 Cal.App.4th 654, 663 [64 Cal.Comp.Cases 624].) We emphasize that in workers' compensation proceedings, the Labor Code makes explicit that the WCJ and the Appeals Board have greater discretion with respect to evidentiary matters than courts in civil proceedings, and not narrower discretion. Section 5708 mandates that we are not "bound by the common law or statutory rules of evidence and procedure, but may make inquiry in the manner, through oral testimony and records, which is best calculated to ascertain the substantial rights of the parties and carry out justly the spirit and provisions of this division." (Lab. Code, § 5708.) Section 5709 specifically allows informality in our proceedings and ensures that "admission into the record, and use as proof of any fact in dispute, of any evidence not admissible under the common law or statutory rules of evidence and procedure" will not invalidate an order, decision or award. (Lab. Code, § 5709.)

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).) Cost petitioner must demonstrate that the fees charged were reasonable. (see *Kunz v. Patterson Floor Coverings, Inc.* (2002) 67 Cal.Comp.Cases 1588 (Appeals Board en banc) 1588; *Torres, supra*, 77 Cal.Comp.Cases 1113; *Tapia v. Skill Masters Staffing* (2008) 73 Cal.Comp.Cases 1338 (Appeals Board en banc) [when the value of the services is not established by a fee schedule, a lien claimant must present evidence of the reasonable value of those services in order to support recovery].)

Hence, in reviewing the identified materials offered by cost petitioner, the WCJ has significant flexibility to admit documents into evidence. Once admitted, the WCJ has the authority to determine the weight or sufficiency of each piece of evidence in consideration against any other. (Lab. Code, § 5312; Cal. Code Regs., tit. 8, § 10330; see also *Clendaniel v. I.A.C.* (1941) 17 Cal.2d. 659, 662.)

Without admitting cost petitioner's Exhibits 34 and 35, the WCJ discussed the weight or sufficiency of them as follows:

Ex. 34 and 35, however, specifically attempt to show what value should be put on the Cost Petitioner's services. They attempt to pick a few sample billings (Ex. 35 suggests that they issued 1815 billings over 8 years) and claim that they were paid in full by various other Defendants.

This type of information has little if any probative value. In fact, it is quite misleading to cherry pick a couple of billings to support Petitioner's claim

especially without the opportunity to cross-examine the person who prepared such documentary evidence.

(Report, at p. 3.)

While we appreciate that it is the WCJ's vested authority to ultimately evaluate each piece of evidence for its probative value, we believe the cost petitioner's evidence in Exhibits 34 and 35 is relevant to show that its costs were reasonable. However, we also note that at time of trial cost petitioner offered no documentary evidence or credible witness testimony to lay a foundation and establish the probative value of its Exhibits 34 and 35. We do not disagree with the WCJ's assessment about the lack of probative value of cost petitioner's Exhibits 34 and 35 above, but we believe Exhibits 34 and 35 should be admitted to evidence to allow for such an assessment. As necessary, the WCJ may consider further development of the record.

Accordingly, we will order that cost petitioner's Exhibits 32-36 are admitted into evidence.

III.

Next, we consider cost petitioner's contention the copy service fee schedule does not apply to its invoices as defendant failed to show that it issued timely and compliant objections to EORs under section 4622(a)(1) and WCAB Rule 9794, and that they are entitled to penalties and interest under section 4622(a)(1), and costs and sanctions under section 5813 and WCAB Rule 10421.

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." (Lab. Code, § 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. (Lab. Code, §§ 4620, 4621, 4622(f); *Colamonico, supra*, 84 Cal.Comp.Cases 1059.)

At trial, the WCJ determined that there was a contested claim at the time the expenses were incurred and the expenses were incurred for the purposes of proving or disproving the contested

claim. Thus, cost petitioner met its burden under sections 4620 and 4621, and we do not disturb those findings.

With respect to whether the expenses were reasonable and necessary at the time they were incurred, the WCJ stated as follows:

The value of the services is now controlled by fee schedule. The legislature mandated that a fee schedule for copy services be prepared. Cal. Lab. Code sec. 5307.9. That fee schedule is *prima facie* evidence of the reasonableness of such services. Hence it will be referred to Defendant to conduct a fee schedule review of all subpoenas and make payment based thereon.

(Opinion on Decision, May 11, 2026, at p. 3.)

The WCJ then acknowledged that when cost petitioner provided its services, the fee schedule for copying services may not have been in place but a fee schedule for copying service was subsequently established and the values therein were determined to be reasonable. (Report, at pp. 3-4.) We disagree with this assessment because it ignores defendant's burden in this process.

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.

WCAB Rule 10786, subdivisions (e) and (f) state that:

(e) A defendant shall be deemed to have waived all objections to a medical-legal provider's billing, other than compliance with Labor Code sections 4620 and 4621, if:

- (1) The provider submitted a properly documented billing to the defendant and, within 60 days thereafter, the defendant failed to serve an explanation of review (EOR) that complies with Labor Code section 4603.3 and any applicable regulations adopted by the Administrative Director; or

- (2) The defendant failed to make payment consistent with an explanation of review (EOR) that complies with Labor Code section 4603.3 and any applicable regulations adopted by the Administrative Director; or
- (3) The provider submitted a timely and proper request for a second review to the defendant and, within 14 days thereafter, the defendant failed to serve a final written determination that complies with any applicable regulations adopted by the Administrative Director; or
- (4) The defendant failed to make payment consistent with a final written determination that complies with any applicable regulations adopted by the Administrative Director.

(f) A defendant shall be deemed to have waived any objections to a medical-legal provider's billing, other than the amount payable pursuant to the fee schedule(s) in effect on the date the services were rendered and compliance with Labor Code sections 4620 and 4621, if the provider submitted a timely objection to the defendant's EOR regarding a dispute other than the amount payable and the defendant failed to file and serve a petition for determination of medical-legal expenses and a Declaration of Readiness as required by Labor Code section 4622 and subdivision (a) of this rule.

(Cal. Code Regs., tit. 8, § 10786(e) and (f).)

Here, there is no evidence in the record that defendant objected to cost petitioner's invoices or issued any EORs. At time of trial, defendant offered no exhibit evidence or witness testimony about its timely compliant objections or EORs in response to cost petitioner's invoices. Accordingly, under section 4622(a), defendant has waived their objections to cost petitioner's invoices, and they owe the bills, penalties of 10 percent, and 7 percent per annum interest. Furthermore, the WCJ's order of payment per fee schedule is incorrect. Specifically, under WCAB Rule 10786(f), the fee schedule applies when defendant has sent EORs. We also note that the order to bill review is also not appropriate given that defendant failed to submit evidence that it issued timely compliant objections or EORs. (Lab. Code, § 4603.6.) Nonetheless, we remind the parties, even though fee schedule is not applicable here, the amount paid to cost petitioner must be reasonable. (Lab. Code, §§ 4620, 4621, 4622(f); *Colamonico, supra*, 84 Cal.Comp.Cases 1059.)

As explained above, WCAB Rule 10786 contains specific provisions applicable to this dispute and sets forth the procedure for determinations regarding medical-legal expense disputes. Subdivision (i) states that:

(i) Bad Faith Actions or Tactics:

- (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).)

Concerning cost petitioner's demand for costs and sanctions 5813 and WCAB Rule 10421, although not specifically raised as an issue for trial, we note that once it is demonstrated that defendant did not comply with section 4622 and the other provisions of WCAB Rule 10786, the issue of costs and sanctions under WCAB Rule 10786(i) is triggered. Nonetheless, whether or not defendant acted in bad faith is an issue of fact for the WCJ in first instance. Therefore, we defer the issue of sanctions, fees and costs.

Accordingly, we will grant cost petitioner's Petition for Reconsideration and we will affirm the WCJ's decision, except that we will amend to find that defendant did not meet its burden to show that it issued timely and compliant objections or EOR in response to cost petitioner's invoices and under section 4622(a) and WCAB Rule 10786(e) and cost petitioner is entitled to payment, penalties, and interest, and to admit cost petitioner's Exhibits 32-36 into evidence. The issue of defendant's liability for sanctions, fees, and costs under WCAB Rule 10786(i) is deferred.

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 and Orders issued by the WCJ on May 11, 2026 is **AFFIRMED** except that it is **AMENDED** as follows:

FINDINGS OF FACT

3. Defendant did not issue timely Explanations of Review. Under Labor Code section 4622(a) and WCAB Rule 10786(e) (Cal. Code Regs., tit. 8, § 10786(e)), cost petitioner is entitled to payment, penalties, and interest. The issue of defendant's liability for sanctions, fees, and costs under WCAB Rule 10786(i) is deferred.

ORDERS

1. Defendant is liable for payment, penalties, and interest to cost petitioner in an amount to be adjusted by the parties with jurisdiction reserved to the WCJ in the event of a dispute.
2. Exhibits 32, 33, 34, 35, and 36 are admitted into evidence.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

I CONCUR,

/s/ CRAIG L. SNELLINGS, COMMISSIONER

/s/ JOSEPH V. CAPURRO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

August 11, 2026

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

**SUPREME COPY SERVICE
FLOYD SKEREN MANUKIAN LANGEVIN**

SL/abs

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