

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

RENEE ARTHURS, *Applicant*

vs.

COUNTY OF KERN, *permissibly self-insured, Defendant*

**Adjudication Number: ADJ21459493
Bakersfield District Office**

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

We have considered the allegations of defendant's Petition for Reconsideration and the contents of the report of the presiding workers' compensation administrative law judge (PWCJ). Based on our review of the record, and for the reasons stated in the PWCJ's Report, which we adopt and incorporate, we will grant the Petition for Reconsideration, rescind the Order Allowing Fees per Labor Code Section 5710¹, and return the matter to the PWCJ for further proceedings consistent with this opinion.

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.

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

(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 April 27, 2026, and 60 days from the date of transmission is Friday, June 26, 2026. This decision is issued by or on Friday, June 26, 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 April 27, 2026, and the case was transmitted to the Appeals Board on April 27, 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 April 27, 2026.

For the foregoing reasons,

IT IS ORDERED that the Petition for Reconsideration is **GRANTED**.

IT IS FURTHER ORDERED as the Decision after Reconsideration of the Workers' Compensation Appeals Board that the Order of February 18, 2026 is **RESCINDED** and that the matter is **RETURNED** to the PWCJ for further proceedings consistent with this opinion.

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

June 25, 2026

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

**RENEE ARTHURS
LAW OFFICE OF MARC APPELL
COUNTY COUNSEL-COUNTY OF KERN**

JL/abs

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

Report and Recommendation on
Petition for Reconsideration and Notice of Transmittal

I. Introduction/Facts: Defendant County of Kern seeks reconsideration to annul the Order Allowing Attorney's Fees Per Labor Code §5710 dated February 12, 2026 by which it was ordered to pay the sum of \$760.00 to Applicant's attorneys of which \$586.67 is conceded to be due (and is reportedly paid) leaving the sum of \$173.33 in dispute.

Applicant Renee Arthurs, then 46 years of age, claims to have sustained a specific industrial injury to her right shoulder while moving a desk at work while employed on November 19, 2024, as a Senior Deputy Probation Officer¹ in Bakersfield, California, by Petitioner County of Kern. On November 19, 2024, Petitioner County of Kern was permissibly self-insured for California workers' compensation liability.

Venue was initially assigned to the DWC's Oxnard District Office. Petitioner sought and obtained a change of venue to the Bakersfield District Office. *Order Granting Change of Venue 10/08/2025*. Unfortunately, judicial staffing at the Bakersfield District Office is severely impacted, necessitating the forwarding of some routine tasks and petitions for action by other WCJs at other District Offices.² The undersigned PWCJ is presently assigned as the "case owner" within the Electronic Adjudication Management System (EAMS) and has prepared and submitted this Report and Recommendation pursuant to WCAB Rule 10962.

Petitioner took the deposition of Applicant Renee Arthurs on December 17, 2025. Applicant initially testified that she had met with her attorney to prepare for the deposition for about 40 minutes. She later testified that the meeting for deposition preparation began at approximately 9:15 a.m. and continued until about ten minutes prior to the start of the deposition at 10:31 a.m. (a period of 66 minutes or 1.1 hours). *Correspondence of Marc Appel, Esq. 3/10/2026-Exhibit 1-partial transcript of Deposition of Applicant Renee Arthurs 12/17/2025*.

¹ Occupation Group has not been stipulated or litigated. Probation Officer is a listed occupation within Group 390.

² The assistance of our colleagues throughout the DWC is noted with appreciation.

On January 23, 2026, Applicant's attorney petitioned for an award of deposition attorneys' fees. 1.9 hours of time, including 1.1 hours of preparation time and 0.8 hours of deposition time at the rate of \$525.00 per hour for a total of \$997.50 was claimed. *Petition/or Attorneys' Fees 1/23/2026*.

Given the impacted judicial staffing at the Bakersfield District Office, action on Applicant's petition for deposition attorneys' fees was delegated to Workers Compensation Judge Alice Burden at the DWC's Anaheim District Office. An Order Allowing Attorneys' Fees Per Labor Code §5710 issued on February 12, 2026. The claimed attorney time of 1.9 hours, including 1.1 hours of preparation time was accepted, but at the rate of \$400.00 per hour, yielding \$760.00. Applicant's attorney was designated to serve the Order and file Proof of Service within ten days. *Order Allowing Attorney Fees Per Labor Code §5710 2/12/2026*. The Order was not preceded by a Notice of Intention and did not contain a "self-destructing" clause allowing post-Order objection.

The Order Allowing Attorneys' Fees was served on March 2, 2026, and proof of service was filed on March 5, 2026. *Proof of Service 3/02/2026; Petition for Reconsideration 3/19/2026 p. 1 line 22*.

Petitioner moved for rescission of the Order Allowing Attorneys' fees. Petitioner accepted the \$400.00 per hour billing rate and the 0.8 hour deposition time estimate, but noted Applicant's initial testimony that the preparation meeting had lasted 40 minutes. Petitioner also complained of tardy service of the Order. *Request for Rescinding Order Allowing Attorneys' Fees Per Labor code 5710 3/05/2026*.

Applicant's attorney responded, noting Applicant's later testimony that the preparation meeting began at approximately 9:15 a.m. and lasted until about ten minutes before the start of the deposition testimony at 10:31 a.m. *Correspondence of Marc Appel, Esq. 3/10/2026*.

The Order was not rescinded. Whereupon, Petitioner County of Kern seeks reconsideration by timely³, verified and properly served petition. *Petition for Reconsideration 3/19/2026 p. 2 lines 11018 (Statement of Timeliness), p. 4 (verification); Proof of Service 3/19/2016*. Authorized grounds for reconsideration are alleged pursuant to Lab.C. 5903 {a}, {c} & {e}. *Petition for Reconsideration 3/19/2026 p.1 line 23 top. 2 line 3*.

³ The pending petition was filed at the Bakersfield District Office on March 19, 2026, the 35u, day after the Order Allowing Attorneys Fees of February 12, 2026 but the 17th day after service of the Order on March 2, 2026,

Petitioner argues that the Order Allowing Attorney's was not supported by a proper record including issues submitted for decision, the stipulation of the parties, and admitted evidence. *Petition for Reconsideration 3/19/2026 p. 2 lines 22-25.* Petitioner also argues that its due process rights were violated by the failure to issue a Notice of Intention with the opportunity to object and by the failure to consider the evidence of Applicant's initial testimony that only 40 minutes of preparation time had occurred. Petitioner also complains that the Applicant's petition was defective for lack of Defendant's initial response to the demand for fees pursuant to WCAB Rule 10547. *Petition for Reconsideration 3/19/2026 p. 2 line 25 top. 3 line 12.*

An Answer to the pending petition has not been received as of the composition of this Report and Recommendation.

[II.] Discussion/Recommendation: The disputed sum of \$173.33 is felt to be below the threshold for cost-efficient litigation. However, Petitioner's procedural complaints regarding the Order Allowing Attorneys' Fees appear to be meritorious. It is recommended that the pending petition be granted and the instant case remanded back to the Trial level for :further consideration. Petitioner should be given the opportunity to be heard regarding whether Applicant's initial testimony regarding 40 minutes of preparation time was more likely correct than the later testimony. That said, Applicant should also receive the opportunity to be heard regarding whether the requested billing rate of \$525.00 per hour or some other rate higher than \$400[.]00 per hour should have been allowed.

DATE: April 27, 2026

Robert Norton
PRESIDING WORKERS' COMPENSATION JUDGE