

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

STEPHANIE TOVAR, *Applicant*

vs.

**UNITED PACIFIC; EVEREST PREMIER INSURANCE CO.,
administered by BROADSPIRE, *Defendants***

**Adjudication Numbers: ADJ17817958; ADJ17817957
Van Nuys District Office**

**OPINION AND DECISION
AFTER REMOVAL;
ORDER IMPOSING SANCTIONS**

On October 13, 2025, we issued an Opinion and Order Granting Petition for Removal and Notice of Intent to Impose Sanctions (Notice).¹ Within that opinion we noted that defendant filed a petition for removal, which appeared to materially misrepresent legal holdings, which included quotations that appeared fabricated. We issued a notice of intent to impose sanctions of up to \$2,500.00 jointly and severally against defendant employer United Pacific, defendant insurer Everest Premier Insurance Company; defendant's administrator Broadspire; and defendant's attorneys the Law Offices of Schlossberg & Umholtz and Brittany Luedecke (CA BAR #289896).

We have received and reviewed the responses filed by attorney Brittany Luedecke and the Law Offices of Schlossberg & Umholtz. As our Decision After Removal, we will issue an order of sanctions, jointly and severally, against attorney Brittany Luedecke (CA BAR #289896) and the Law Offices of Schlossberg & Umholtz in the amount of \$1,000.00.

¹ Deputy Commissioner Schmitz was on the panel that issued the notice of intent. A new panel member has been substituted in her place.

FACTS

The facts of this case as relates to the issue of sanctions were discussed in our October 13, 2025 Notice as follows:

Here, defendant cited to the panel decision in *Muldrow v. AMS Outsourcing / Staffchex*, 2019 Cal. Wrk. Comp. P.D. LEXIS 452. Defendant argues that the *Muldrow* panel reversed the WCJ and ordered the issue of section 3208.3(d) to proceed to trial because it is a threshold issue to be decided prior to a panel QME evaluation. However, the panel decision does not support this argument. The *Muldrow* panel stated:

Previous panel decisions have rejected the argument that the issue of length of employment for purposes of section 3208.3(d) must be determined prior to a psychiatric QME evaluation. (See e.g., *Lal v. US Airways Group, Inc.* (April 23, 2012, ADJ362898) [2012 Cal. Wrk. Comp. P.D. LEXIS 191]; *Morfin v. Araujo's Mexican Grill* (October 12, 2015, ADJ9877170) [2015 Cal. Wrk. Comp. P.D. LEXIS 601].) **We are therefore not persuaded that the issue of whether applicant is barred from compensation for her psychiatric claim by section 3208.3(d) must be adjudicated prior to a psychiatric QME evaluation.**

However, in this matter, the July 20, 2017 minute order by WCJ Shields specified that in the event of “a timely objection [to the psychiatric QME panel] by either party based upon the applicability of LC § 3208.3(d), this issue will be fully litigated prior to the setting of any psychiatric PQME evaluation.” None of the parties sought removal of this order. The WCJ at trial chose to treat Mitsui’s August 18, 2017 DOR as an objection to the psychiatric QME panel and this “objection” was timely made within 30 days of the July 20, 2017 minute order.

(*Id.* at *9-10, (emphasis added).)

Contrary to defendant’s argument, the *Muldrow* panel does not support the proposition that section 3208.3(d) is a threshold issue. Instead, that panel was decided based upon the unique facts of the case, which included a prior non-appealed order of the WCJ that declared section 3208.3(d) a threshold issue in that case.

Next, defendant cites to *Mangan v. Oakdale Inn*, 2022 Cal. Wrk. Comp. P.D. LEXIS 219. Defendant argues that the *Mangan* panel stands for the following:

The WCAB held that “where there is a threshold legal issue that may bar a claim entirely, that issue should be resolved before ordering medical-legal evaluations that may ultimately be

unnecessary.” The WCAB emphasized that the six-month rule is a “clear statutory prerequisite” to the compensability of psychiatric injury claim and that this prerequisite should be addressed before incurring the costs of medical-legal evaluations.

(Petition for Removal, p. 4, lines 24-28.)

Defendant’s quotations do not appear to exist. We could not find these quotes in any published panel decision of the Appeals Board. It appears that the above citations are fabricated. The *Mangan* panel stands in complete opposite of defendant’s representations as it affirmed the WCJ’s order issuing a psychiatric panel and deferring the issue of section 3208.3(d).

It is unclear how an attorney licensed by the California State Bar, who signed the Petition for Removal under penalty of perjury, could have read the panel decisions above and cited them in the manner they were presented. It appears that the Petition was not reviewed before filing. Thus, it appears that defendant’s filing was frivolous and not in good faith. In its response, defendant is invited to discuss, in detail, how these citations were generated.

(Notice, October 13, 2025, pp. 3-5.)

In the October 13, 2025 Notice, we invited defendant to address, in detail, how the quotations were created. Defendant responded by advising that the quotations appear to have been fabricated using AI, however they were fabricated by office support staff; and that the quotations remained in the filed petition through inadvertence as the supervising attorney encountered a family emergency.

DISCUSSION

Section 5813 states, in pertinent part:

(a) The workers’ compensation referee or appeals board may order a party, the party’s attorney, or both, to pay any reasonable expenses, including attorney’s fees and costs, incurred by another party as a result of bad-faith actions or tactics that are frivolous or solely intended to cause unnecessary delay. In addition, a workers’ compensation referee or the appeals board, in its sole discretion, may order additional sanctions not to exceed two thousand five hundred dollars (\$2,500) to be transmitted to the General Fund.

(§ 5813(a).)

As the Second District of the California Court of Appeal observed last year, attorney use of AI is a growing problem:

In the last two years, many courts have confronted briefs populated with fraudulent legal citations resulting from attorneys' reliance on generative AI. One court noted:

"The issue of AI programs populating and citing to fake or nonexistent legal authority, what has become known as AI 'hallucinations,' is an issue for courts that is becoming far too common." (*Powhatan County School Board v. Skinger* (E.D. Va., June 2, 2025, No. 3:24cv874) 2025 WL 1559593, p. 9 (*Powhatan*).) Another court referenced a case citation that "has all the markings of a hallucinated case created by generative artificial intelligence (AI) tools such as ChatGPT and Google Bard that have been widely discussed by courts grappling with fictitious legal citations and reported by national news outlets." (*United States v. Hayes* (E.D. Cal. 2025) 763 F.Supp.3d 1054, 1065 (*Hayes*).) And yet another noted a plaintiff's "false citations" that "appear to be hallmarks of an artificial intelligence ('AI') tool," observing that "[i]t is now well known that AI tools 'hallucinate' fake cases." (*Schoene v. Oregon Department of Human Services* (D.Or., July 18, 2025, No. 3:23-cv-742-SI) 2025 WL 2021654 (*Schoene*), p. 7; see also *Hall v. Academy Charter School* (E.D.N.Y., Aug. 7, 2025, No. 2:24-cv-08630-JMW) 2025 WL 2256653, p. 4 ["The appearance of hallucinated citations in briefs generated from AI is no longer in its nascent stage. Regrettably, the number and regularity with which courts have been faced with hallucinations in court filings continues to rise"].)

One recent article suggests that the problem of AI hallucinations is getting worse, not better, noting that OpenAI's newest models hallucinated "30–50% of the time, according to company tests." (Murray, *Why AI 'Hallucinations' Are Worse Than Ever*, Forbes.com (May 6, 2025) <<https://www.forbes.com/sites/conormurray/2025/05/06/why-ai-halluncinations-are-worse-than-ever/>> [as of Sept. 12, 2025], archived at <<https://perma.cc/Q8NU-AEZ9>>.) The article explained that many AI models "are designed to maximize the chance of giving an answer, meaning the bot will be more likely to give an incorrect response than admit it doesn't know something." (*Ibid.*) A district court recently noted that this means AI hallucinations are "more likely to occur when there are little to no existing authorities available that clearly satisfy the user's request" (*In re Richburg* (Bankr. D.S.C., Aug. 27, 2025, No. AP 25-80037-EG) 2025 WL 2470473, p. 5, fn. 11)—such as, for example, when a lawyer asks a generative AI tool to supply a citation for an unsupported principle of law. And, because AI responses generally are "grammatically correct and ... presented as fact" (Murray, *supra*, Forbes.com), fabrications are not readily apparent. (See *Malone-Bey v. Lauderdale County School Board* (S.D.Miss., July 25, 2025, No. 3:25-cv-380-KHJ-MTP) 2025 WL 2098352, p. 4 ["[H]allucinated cases look like real cases. They are identified by a case name, a citation to a reporter, the name of a district or appellate court, and the year of the decision. [Citation.] But, they are not real cases. These hallucinated

cases are instead inaccurate depictions of information from AI models that suffer from incomplete, biased, or otherwise flawed training data"].)

(*Noland v. Land of the Free, L.P.* (2025) 114 Cal.App.5th 426, 443–444, 336 Cal. Rptr. 3d 897.)

Since the *Noland* case, in which the court imposed monetary sanctions of \$10,000.00 on the offending attorney for hallucinated case citations generated by AI, the California Courts of Appeal have addressed the same issue in several other cases, including: *People v. Alvarez* (2025) 114 Cal.App.5th 1115, 1118–1120 [sanctions of \$1,500.00 for misciting cases and citing a nonexistent case]; *Schlichter v. Kennedy* (2025) 116 Cal.App.5th 24, 33–34 [sanctions of \$1,750.00 for fabricated legal authority]; *Shayan v. Shakib* (2025) 116 Cal.App.5th 619, 623–626 [sanctions of \$7,500.00 for misrepresented citations]; *In re Domestic Partnership of Torres Campos & Munoz* (2026) 118 Cal.App.5th 1112, 1129–1130 [sanctions of \$5,000.00 for citing fabricated cases]; *Sheerer v. Panas* (2026) 119 Cal.App.5th 367, 370–371 [not imposing sanctions, but establishing that unrepresented litigants can be sanctioned for false citations generated by AI]; and *Quinteros v. Harbor Distributing, LLC* (2026) 121 Cal. App. 5th 60 [sanctions of \$6,000.00 upheld for AI-generated citations to nonexistent cases].

Federal Courts have also taken note of this issue, most recently in *Malkeet Lnu v. Blanche* (2026) 177 F.4th 1014, where the United States Court of Appeals for the Ninth Circuit ordered two attorneys to pay monetary sanctions of \$2,500.00 each for citing nonexistent cases, misattributing quotations, and misrepresenting real cases. The attorneys in that case, who implausibly denied using generative AI, were also suspended from appearing before the Ninth Circuit for six months. The Ninth Circuit additionally ordered all attorneys in their law firm to include with any filing in the next two years a statement, made under penalty of perjury, addressing whether generative AI was used, disclosing the name of the tool used, and certifying that the attorney signing the brief or other filing personally reviewed the filing and that all citations and quotations therein refer to existing authority. The Ninth Circuit further ordered the two attorneys to serve a copy of the sanctions order on every client, opposing counsel, and presiding judge in all pending state or federal cases in which they are counsel of record.

We share the state and federal courts' serious and legitimate concerns regarding the risks inherent in relying upon generative AI to prepare legal documents. We recognize that the use of generative AI in preparing petitions and other documents for filing with the WCAB is not specifically prohibited, however WCAB Rule 10940(c) requires that: "Every petition and answer

shall be verified upon oath in the manner required for verified pleadings in courts of record. A verification ... shall be attached to each petition and answer. ..." (Cal. Code Regs., tit. 8, § 10940(c).) **This requirement that a petition for reconsideration must be verified under penalty of perjury is clear.** Moreover, it is presumed that attorneys will comply with their professional obligation to check all filings for factual and legal errors and correct any such errors prior to filing. While the WCAB strives to avoid encumbrance of any character and is frequently more lenient than civil and appellate courts, there is no room in workers' compensation proceedings for avoidable misrepresentation of facts and law.

The issue here involves a lack of supervision of office staff in permitting fabricated quotations to appear in verified legal pleadings. We addressed this issue in a recent en banc opinion:

It is every attorney's duty to supervise non-attorneys in their firm and ensure that the non-attorney's conduct "is compatible with the professional obligations of the lawyer." (Cal. Rules of Prof'l Conduct, Rule 5.3(a).) [Footnote 5] Section 5700 provides that a party "may be present at any hearing, in person, by attorney, or by any other agent...." Section 4907 provides that "[non-attorney] representatives shall be held to the same professional standards of conduct as attorneys." (See Cal. Code Regs., tit. 8, § 10401(b).) Per WCAB Rule 10401, "a non-attorney representative may act on behalf of a party in proceedings before the Workers' Compensation Appeals Board if the party has been informed that the non-attorney representative is not licensed to practice law by the State of California." (Cal. Code Regs., tit. 8, § 10401(a).)

In Footnote 5, we stated that:

Business and Professions Code section 6068 provides in part that an attorney must respect the courts of justice and judicial officers (subdivision (b)); maintain only actions that are legal or just (subdivision (c)); be truthful at all times, **including never to mislead a judge or judicial officer by false statement of fact or law** (subdivision (d)); and, refrain from beginning or continuing a proceeding from "any corrupt motive" (subdivision (g)). Rule 3.3 of the California Rules of Professional Conduct provides in part that a lawyer shall not: "(1) knowingly make a false statement of fact or law to a tribunal. . ." Rule 5.3 requires that: (a) "a lawyer who . . . possesses managerial authority in a law firm, shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the nonlawyer's conduct is compatible with the professional obligations of the lawyer; (b) a lawyer having direct supervisory authority over the nonlawyer, whether or not an employee of the same law firm, shall make reasonable efforts to ensure that person's conduct is compatible with professional obligations of the lawyer; and (c) a lawyer shall be responsible for conduct of such a person that would be a violation of these rules or the State Bar Act if engaged in by a lawyer if: (1) the lawyer orders

or, with knowledge of the relevant facts and of the specific conduct, ratifies the conduct involved; or (2) the lawyer. . . possesses managerial authority in the law firm in which the person is employed, or has direct supervisory authority over the person whether or not an employee of the same law firm, and knows of the conduct at a time when its consequences be avoided or mitigated but fails to take reasonable remedial action.”

(*Ledezma v. Kareem Cart Commissary and Mfg*, (2024) 89 Cal. Comp. Cases 462, 473 (En Banc) (emphasis added).)

As discussed the en banc holding in *Ledezma*, the attorney is responsible for supervising staff at all times. While we understand and sympathize that defense counsel suffered a family emergency during this time, and we have taken that fact into account in reducing the amount of sanctions ordered, that cannot entirely excuse the conduct exhibited. The appropriate response to an emergency that precludes the attorney from supervising staff is to have another attorney provide the required supervision or otherwise request leave of the court due to an emergency. **No emergency permits an attorney to file documents that contain misrepresentations or fabricated quotations.**

In determining whether to sanction, and the appropriate amount to sanction, we have considered the candid responses from both the attorney and the law firm involved in this case. We have reduced the amount of sanctions from \$2,500.00 to \$1,000.00 based upon the responses received.

Accordingly, and good cause appearing,

IT IS ORDERED as the Decision After Removal of the Workers’ Compensation Appeals Board that pursuant to Labor Code section 5813 and WCAB Rule 10421 (Cal. Code Regs., tit. 8, § 10421), defendant’s attorneys, **LAW OFFICES OF SCHLOSSBERG & UMHOLTZ** and **BRITTANY LUEDECKE** (CA BAR #289896), shall jointly and severally pay sanctions of \$1,000.00 payable to the General Fund.

Payment shall be made within twenty (20) days (plus five (5) additional days for mailing Cal. Code Regs., tit. 8, §§ 10605(a)(1), 10600) after service of this Order. Payment shall be made by check payable to the Workers' Compensation Appeals Board, Tax I.D. 94–3160882, for transmission to the General Fund and shall reference *Stephanie Tovar v. United Pacific*, ADJ17817958; ADJ17817957.

Payment shall be sent to: Workers Compensation Appeals Board, Office of the Commissioners, 455 Golden Gate Avenue, 9th Floor, San Francisco, CA 94102, ATTENTION: Anne Schmitz.

IT IS FURTHER ORDERED that this matter is **RETURNED** to the trial level for further proceedings.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

I CONCUR,

/s/ CRAIG L. SNELLINGS, COMMISSIONER

/s/ PAUL F. KELLY, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

September 24, 2026

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

**STEPHANIE TOVAR
LAW OFFICE OF BOB NEHORAY
LAW OFFICES OF SCHLOSSBERG UMHOLTZ
WC AND PI LIEN**

EDL/mt

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