

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

JENNIFER CHASE, *Applicant*

vs.

**SOUTHERN IMPLANTS OF NORTH AMERICA; TRAVELERS PROPERTY AND
CASUALTY COMPANY OF AMERICA, *Defendants***

Adjudication Number: ADJ12865802

Santa Barbara District Office

**OPINION AND ORDER
GRANTING PETITION
FOR RECONSIDERATION
AND NOTICE OF INTENT TO
IMPOSE SANCTIONS**

Applicant seeks reconsideration of the Findings & Award (“F&A”) issued on June 20, 2025 by the workers’ compensation administrative law judge (WCJ), wherein the WCJ found in pertinent part that applicant did not sustain a psychiatric injury arising out of and in the course of employment (“AOE/COE”). Applicant contends the WCJ erred, and that the uncontroverted evidence of the Qualified Medical Examiner (QME) and applicant’s own testimony establish such injury.

We did not receive an Answer. The WCJ filed a Report and Recommendation on Petition for Reconsideration (“Report”), recommending that we deny reconsideration.

We have reviewed the Petition and the Report, as well as the record. For the reasons discussed below, we will grant the Petition for Reconsideration and issue a Notice of Intention to impose sanctions of up to \$2,500.00 jointly and severally against applicant’s attorneys Ghitterman, Ghitterman & Feld and Anton Diffenderfer (CAL BAR #229171). A final decision on the merits of the petition is deferred pending resolution of the issue of sanctions. Once a final decision after reconsideration is issued by the Appeals Board, any aggrieved person may timely seek a writ of review pursuant to Labor Code section 5950 et seq.¹

¹ Further references are to the Labor Code unless otherwise specified.

FACTS

Applicant filed an Application for Adjudication, alleging a continuous trauma injury to multiple orthopedic body parts, sustained from November 30, 2016 through January 10, 2019 for the orthopedic injuries and from while employed by defendant as a regional sales manager. An Amended Application for Adjudication was later filed, adding an alleged injury to applicant's psyche. The parties have stipulated to the compensability of applicant's orthopedic injuries, but dispute whether applicant sustained a compensable psyche injury.

The matter proceeded to trial on March 20, 2025 and March 26, 2025, with the issues for trial listed as: (1) psyche injury; (2) permanent and stationary date; (3) permanent disability; (4) apportionment; (5) need for further medical treatment; (6) liability for self-procured medical treatment; (7) liens; (8) attorney fees; and (9) the statute of limitations with regard to the psyche injury. (Minutes of Hearing / Summary of Evidence ("MOH/SOE"), 3/20/2025, at p. 3.) With regard to the psyche injury, the MOH/SOE states: "LET THE MINUTES REFLECT that applicant is claiming psyche as a direct impact." (*Ibid.*) QME reports from Thor Gjerdrum, M.D., and Jamie Rotnofsky, PhD, were admitted, along with other evidence, some marked for identification only. (*Id.* at pp. 3–5.)

According to applicant's testimony, on February 1, 2019, at 10:00am, applicant was about to get into the shower when she heard a knock on the door, which became louder and then turned into pounding.² (*Id.* at pp. 5–6.) She heard someone going to every door and window. (*Id.* at p. 6.) After what seemed like three or four minutes, she heard a car leave. (*Ibid.*) After a few minutes, the man returned and again tried to open her doors while pounding and knocking on all of the doors and windows. (*Ibid.*) Applicant was ducking down beside the bed due to fear; she eventually got dressed and got her gun. (*Ibid.*) She saw the man as he approached the glass door, and screamed at him and brandished her gun. (*Ibid.*) The man left and did not come back. (*Ibid.*) She thought she had been the victim of an attempted crime and had never been so scared in her life. (*Ibid.*) The man smirked at her when she saw him. (*Ibid.*) Applicant called 911 and deputies arrived and talked to her, but no report was ever produced. (*Ibid.*) She later discovered from the sheriff that the man who came to her house was apparently trying to hand her an envelope with information related to COBRA insurance coverage and other employment details. (*Ibid.*)

² The record does not explain why this incident occurred after the January 1, 2019 date pled in the Application for Adjudication and the Pre-trial Conference Statement as the end of the cumulative trauma period.

Applicant also testified that her boss would routinely belittle her and “accused her of doing things.” (*Ibid.*)³

Elaine Lauston, applicant’s landlord, also testified. (MOH/SOE, 3/26/25, at p. 2.) According to the MOH/SOE, Lauston “remembered the incident of March 1, 2019.”⁴ Lauston was alone at home when an individual knocked on her door and said he was looking for applicant. (*Ibid.*) She told him where applicant lived, and he left; she presumed he went to applicant’s house. (*Ibid.*) He had an envelope in his hand. (*Ibid.*) Sometime later, two sheriff deputies knocked on her door and told her there had been an incident involving applicant. (*Ibid.*) She never spoke to the man after he left, and she described the envelope as brown, about regular paper size. (*Ibid.*) The man did not identify himself. (*Ibid.*)

On June 20, 2025, the WCJ issued his F&A, finding in pertinent part that applicant “did not sustain injury on a psychological basis as a direct impact injury so as to warrant the imposition of temporary or permanent disability benefits[.]”. (F&A, at p. 1, ¶ 2.) The Opinion on Decision makes clear that the WCJ’s decision was based upon a judgement that applicant had failed to carry her burden to prove injury. (Opinion on Decision, at p. 2.) The Opinion on Decision indicates the WCJ had doubts that the man sent to applicant’s house was sent by defendant, whether the incident would constitute an actual event of employment even if the man had been sent by defendant, and expressed a judgement that Dr. Rotnofsky’s QME report was not substantial evidence. (*Id.* at pp. 1–2.)

This Petition for Reconsideration followed.⁵

³ Based on the MOH/SOE, applicant does not appear to have testified in any greater detail on these points.

⁴ It is unclear from the record why applicant testified that the incident was on February 1, 201, while Lauston testified that it was on March 1, 2019. It is also unclear exactly when applicant’s employment ended; she testified that she last worked for the employer “at the end of February or the beginning of March in 2019.” (MOH/SOE, 3/20/25, at p. 5.)

⁵ On July 7, 2025, the day after the filing of the Petition for Reconsideration, the WCJ filed an “Amended Findings and Award Due to Clerical Error,” correcting a clerical error in the calculation of the temporary disability rate. The Report does not reference this correction, nor does the filing itself suggest that the WCJ intended to rescind the prior decision and substitute a new decision, such that a second Petition for Reconsideration of the new decision would be required. We will take the correction of this clerical error into account in our final decision after reconsideration on the merits of the Petition.

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. (§ 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.

(§ 5909.)

Under section 5909, subdivision (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 23, 2025, and 60 days from the date of transmission is Sunday, September 21, 2025, which by operation of law means this decision is due by Monday September 22, 2025. (Cal. Code Regs., tit. 8, § 10600.). This decision is issued by or on September 22, 2025, so that we have timely acted on the Petition as required by section 5909, subdivision (a).

Section 5909, subdivision (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, subdivision (b)(2) provides that service of the Report and Recommendation shall be notice of transmission.

According to the proof of service for the Report and Recommendation by the WCJ, the Report was served on July 23, 2025, and the case was transmitted to the Appeals Board on July 23, 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 section 5909, subdivision (b)(1) because service of the Report in compliance with section 5909, subdivision (b)(2) provided them with actual notice as to the commencement of the 60-day period on July 23, 2025.

II.

FAILURE TO CITE TO PROPER LEGAL AUTHORITY

The Petition for Reconsideration cites to a number of purported legal authorities, as detailed below. First:

In *Maislin v. WCAB* (2022) 87 Cal. Comp. Cases 765 (writ den.), the Board held that Labor Code § 4660.1(c) “has no application where the psychiatric injury is industrial in its own right.”

(Petition for Reconsideration, at p. 6.)

Second:

Under Evidence Code § 411, the direct testimony of a single credible witness is sufficient to prove any fact. The Supreme Court affirmed this in *Hegglin v. WCAB* (1971) 4 Cal.3d 162, 169; see also *Patterson v. WCAB* (1975) 40 Cal.App.3d 936 and in *Rios v. City of West Sacramento* (2013) 2013 Cal.Wrk.Comp. P.D. LEXIS 626 (WCAB panel decision).

(Petition for Reconsideration, at p. 7.)

Finally:

Likewise, *Tyner v. WCAB* (1998) 63 Cal. Comp. Cases 1744 emphasizes that record development is mandatory where the evidence is inadequate.

(Petition for Reconsideration, at p. 11.)

Based on our review, aside from the citation to *Hegglin*, each of the citations highlighted above is flawed in significant ways, and in two cases, the citations appear to entirely fabricated.

In rough order of egregiousness, the proper citation for the 1975 case *Patterson v. WCAB* is 53 Cal.App.3d 916; the Petition’s given citation, 40 Cal.App.3d 936, is not a real citation, but

corresponds most closely to a completely unrelated criminal case from 1974, *People v. Orlosky* (1974) 40 Cal.App.3d 935.

Next, the Petition's purported citation to *Tyner v. WCAB* (1998) 63 Cal. Comp. Cases 1744 instead corresponds to *Wright v. W.C.A.B.*, a decision relating to an entirely different issue. It appears that the Petition is attempting to cite to *Tyler v. Workers Compensation Appeals Bd.* (1997) 62 Cal. Comp. Cases 924.

Finally, and of greatest concern, the citations to *Maislin v. WCAB* (2022) 87 Cal. Comp. Cases 765 (writ den.) and *Rios v. City of West Sacramento* (2013) 2013 Cal.Wrk.Comp. P.D. LEXIS 626 (WCAB panel decision) appear to be entirely fabricated. The cite given in the Petition for *Maislin* most closely corresponds to *McCullar v. SMC Contracting, Inc.* (2022) 83 Cal.App.5th 1005 [87 Cal. Comp. Cases 758], an unrelated civil case involving the independent contractor doctrine. Based on our review, no case under the name *Maislin* has been filed in the California workers' compensation system since electronic records began, nor do we have any record of a writ by that name ever having been filed or denied by the Court of Appeal. Finally, the quotation attributed to *Maislin* in the Petition does not appear to correspond to any real case.

The citation to *Rios v. City of West Sacramento* (2013) 2013 Cal.Wrk.Comp. P.D. LEXIS 626 (WCAB panel decision) appears similarly nonexistent. The provided citation is actually to *Santino v. Strategic Alliance Staffing Servs.* (2013) 2013 Cal. Wrk. Comp. P.D. LEXIS 626, an unrelated case, nor does the caption *Rios v. City of West Sacramento* appear to correspond to any real case.

All of these flawed citations are concerning, but we are particularly perturbed by the apparent conjuration from thin air of *Maislin* and *Rios* – two cases which, as far as we can tell, simply do not exist. It is difficult to comprehend how such apparently fake citations could make their way into a pleading filed under penalty of perjury, without having been caught and corrected prior to filing with the normal exercise of due diligence.

Section 5813 permits the Workers' Compensation Appeals Board to issue sanctions of up to \$2,500.00, for acts which result from “. . . bad-faith actions or tactics that are frivolous or solely intended to cause unnecessary delay.” (§ 5813.)

WCAB Rule 10421(b) states in relevant part that:

Bad faith actions or tactics that are frivolous or solely intended to cause unnecessary delay include actions or tactics that result from a willful failure to

comply with a statutory or regulatory obligation, that result from a willful intent to disrupt or delay the proceedings of the Workers' Compensation Appeals Board, or that are done for an improper motive or are indisputably without merit.

WCAB Rule 10421(b) further provides a comprehensive but non-exclusive list of actions that could be subject to sanctions. As applicable here, subdivision (b) states that a party may be subject to sanctions where the party has engaged in the following actions:

(8) Asserting a position that misstates or substantially misstates the law . . .

(Cal. Code Regs., tit. 8, § 10421(b).)

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 or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer; or (2) . . . knowingly misquote to a tribunal the language of a book, statute, decision or other authority."

Here, although it seems apparent that the citations in question fall afoul of WCAB Rule 10421, Business and Professions Code section 6068, and Rule 3.3 of the California Rules of Professional Conduct, we are left in the dark as to motive and method – in other words, how such citations were included in the Petition in the first place, and why. To that end, the operative question before us is not so much how the Petition was drafted in a strictly mechanical sense – for example, whether artificial intelligence (AI) was involved – as how it came to be signed and submitted under penalty of perjury by a licensed attorney.

We will therefore issue a Notice of Intention ("NIT") to impose sanctions, in order to provide applicant's attorney an opportunity to respond to our concerns and explain what occurred. We anticipate that the response will explain how these errors came to be included in the Petition and why they were not caught and corrected prior to filing, along with any other information that applicant's attorneys deem relevant in assessing whether sanctions should be imposed.

Accordingly, we grant the Petition for Reconsideration. A final decision on the merits of the Petition will follow our decision on whether to impose sanctions.

We issue a Notice of Intention to impose sanctions of up to \$2,500.00 jointly and severally against applicant's attorneys Ghitterman, Ghitterman & Feld and Anton Diffenderfer (CAL BAR #229171).

For the foregoing reasons,

IT IS ORDERED that applicant's Petition for Reconsideration of the Findings & Award issued on June 20, 2025 is **GRANTED**.

NOTICE IS HEREBY GIVEN that absent written objection in which good cause to the contrary is demonstrated, within twenty (20) days plus five (5) additional days for mailing (Cal. Code Regs., tit. 8, §§ 10605(a)(1), 10600) after service of this Notice, pursuant to Labor Code section 5813 and WCAB Rule 10421 (Cal. Code Regs., tit. 8, § 10421), the Workers' Compensation Appeals Board will order applicant's attorneys **GHITTERMAN, GHITTERMAN & FELD** and **ANTON DIFFERDERFER** (CA Bar #229171) to jointly and severally pay sanctions of up to \$2,500.00 payable to the General Fund.

IT IS FURTHER ORDERED that all responses to this Notice must be electronically filed in the Electronic Adjudication System (EAMS) within twenty (20) days plus five (5) additional days for mailing (Cal. Code Regs., tit. 8, §§ 10605(a)(1), 10600) after service of this Notice. **Untimely or misfiled responses may not be accepted or considered.**

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER

/s/ PAUL KELLY, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

September 22, 2025

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

**JENNIFER CHASE
GHITTERMAN, GHITTERMAN & FELD
WOOLFORD & ASSOCIATES**

AW/kl

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