

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

ABEL HIDALGO, et al., *Applicants*

vs.

**ROMAN CATHOLIC ARCHBISHOP, permissibly self-insured,
administered by SEDGWICK, et al., *Defendants***

Adjudication Numbers: ADJ13332737, ADJ15218980, ADJ12640295

**ORDER OF CONSOLIDATION AND
NOTICE OF INTENT TO
IMPOSE SANCTIONS AND COSTS**

(En Banc)

We previously granted removal in these matters on our own motion to provide an opportunity to study and address the issues of sanctions and costs under Labor Code, section 5813¹. Having completed our review, we now issue an Order of Consolidation and a Notice of Intent to Impose Sanctions and Costs (En Banc).

To secure uniformity of decisions in the future, the Chair of the Appeals Board, upon a unanimous vote of its members, assigned this case to the Appeals Board as a whole for an en banc decision.² (§ 115.)

We will issue an order consolidating three (3) cases to decide the common issues of sanctions and reasonable expenses, including costs and attorney's fees. Thereafter, we will issue a notice of intent to impose sanctions of up to \$2,500.00 against Susan Garrett in three (3) instances where it appears that she filed petitions for reconsideration with willful intent to disrupt or delay the proceedings of the Workers' Compensation Appeals Board or with an improper motive, or

¹ All future references are to the Labor Code unless noted.

² En banc decisions of the Appeals Board are binding precedent on all Appeals Board panels and workers' compensation administrative law judges. (Cal. Code Regs., tit. 8, § 10325; *City of Long Beach v. Workers' Comp. Appeals Bd. (Garcia)* (2005) 126 Cal.App.4th 298, 316, fn. 5 [70 Cal.Comp.Cases 109]; *Gee v. Workers' Comp. Appeals Bd.* (2002) 96 Cal.App.4th 1418, 1424, fn. 6 [67 Cal.Comp.Cases 236].) This en banc decision is also adopted as a precedent decision pursuant to Government Code section 11425.60(b).

where it appears that such actions were indisputably without merit (up to \$7,500.00 total). We will also issue a notice of intent to impose sanctions of up to \$2,500.00 against Lance Garrett in three (3) instances where it appears that he filed petitions for reconsideration with willful intent to disrupt or delay the proceedings of the Workers' Compensation Appeals Board or with an improper motive, or where it appears that such actions were indisputably without merit (up to \$7,500.00 total). Lastly, we will issue a notice of intent to award reasonable expenses, including attorney's fees and costs, associated with the petitions for reconsideration filed in each of these matters. If awarded, the issue of the amount of expenses will be deferred to the trial level, so that no response to the issue of the amount of expenses shall be filed at this time.

FACTS

These matters involve a continuing course of conduct that appears to have occurred across three (3) cases, involving attorney Susan Garrett and hearing representative Lance Garrett's representation.³ The Appeals Board takes judicial notice of the Electronic Adjudication Management System ("EAMS") files in each of these cases and of the Appeals Board's en banc notice of intent and subsequent order imposing sanctions and costs in *Alfredo Ledezma et al. v. Kareem Cart Commissary and Mfg. et al.*, 2024 Cal. Wrk. Comp. LEXIS 12 (Appeals Board En Banc) [Notice of Intent]; *Alfredo Ledezma et al. v. Kareem Cart Commissary and Mfg. et al.*, 2024 Cal. Wrk. Comp. LEXIS ___ (Appeals Board En Banc) [Order Imposing Sanctions and Costs].

1. Abel Hidalgo - ADJ13332737

On June 20, 2020, Susan Garrett filed an Application for Adjudication of Claim (Application) alleging that applicant sustained a cumulative injury to the neck, arms, hands, fingers, shoulders, back, knees, and in the form of headaches and high blood pressure. (Application, ADJ13332737, June 20, 2020).

After years of discovery and multiple hearings, the parties took the matter off calendar advising that a settlement was pending. (Minutes of Hearing, October 25, 2023.)

On January 24, 2024, defendant filed a Declaration of Readiness to Proceed (DOR), seeking a trial on the merits as applicant had failed to return signed settlement documents. Applicant did not object to the DOR.

³ Garrett Law Group is the law firm, which is apparently operated by Susan Garrett.

At the hearing on March 6, 2024, the WCJ set the matter for trial over applicant's objection, noting that applicant failed to object to the DOR. (Minutes of Hearing, March 6, 2024.) Trial was set for March 20, 2024. (*Ibid.*)

On the morning of trial, applicant filed a petition for reconsideration or in the alternative petition for removal. The petition argued that the case was not ready for trial because applicant had not yet attended a qualified medical evaluation. (Petition for Reconsideration or in the alternative Petition for Removal, ADJ13332737, p. 10.) The minutes of hearing reflect the following:

NO APPEARANCE BY COUNSEL FOR APPLICANT OR APPLICANT. NO NOTICE TO DEFENDANT OF APPLICANT ATTORNEY'S INTENTION NOT TO APPEAR. PETITION FOR RECONSIDERATION/REMOVAL FILED 8;00 AM TODAY PER EAMS

(Minutes of Hearing, March 20, 2024.)

2. Maria Ayala - ADJ15218980

On September 28, 2021, Susan Garrett filed an Application alleging that applicant sustained a cumulative injury to the forearms, hands, fingers, back, calves, and feet. (Application, ADJ15218980, September 28, 2021).

On December 6, 2021, defendant filed a DOR, seeking a trial on the merits. Applicant did not object to the DOR. The matter was thereafter set and continued for sixteen hearings, which occurred over the next two years as discovery progressed.

At the hearing on February 20, 2024, the WCJ set the matter for trial over applicant's objection. (Minutes of Hearing, ADJ15218980, February 20, 2024.) Trial was set for March 26, 2024. (*Ibid.*)

On the eve of trial, applicant filed a petition for reconsideration or in the alternative petition for removal. The petition argued that the case was not ready for trial because applicant had not yet attended a qualified medical evaluation. (Petition for Reconsideration or in the alternative Petition for Removal, ADJ15218980, p. 14.) The minutes of hearing reflect the following:

CASE WAS CALLED SEVERAL TIMES AND AA FAILED TO STATE APPEARANCE. INTERPRETER APPEARED AND INDICATED HE WAS APPEARING AT THE BEHEST OF AA. INTERPRETER ALSO INDICATED HE HAS NOT HAD CONTACT WITH THE APPLICANT OR APPLICANT ATTORNEY TODAY. IT WAS DISCOVERED AA FILED A

“PETITION FOR RECON/REMOVAL” AT 4:48 PM LAST NIGHT. DEFENDANT WAS UNAWARE OF PETITION AND REQUESTED A COPY. A COPY OF “PETITION FOR RECON/REMOVAL” WAS EMAILED TO DEFENDANT (AND CC’D TO AA). NOI SANCTIONS TO ISSUE IN REFERENCE TO AA FAILURE TO APPEAR TODAY. MATTER IS TAKEN OFF CALENDAR.

(Minutes of Hearing, March 26, 2024.)

3. Marta Meza - ADJ12640295

On October 17, 2019, Susan Garrett filed an Application alleging that applicant sustained a cumulative injury to the neck, arms, hands, fingers, waist, shoulders, and hips. (Application, ADJ12640295, October 17, 2019.)

On March 3, 2023, Lance Garrett filed a DOR requesting a mandatory settlement conference be set on the issues of injury and temporary disability. Defendant timely objected to the DOR and raised the issue of striking the QME due to allegedly untimely reporting.

The WCJ set the matter for trial on the issue of whether to strike the QME. (Minutes of Hearing, ADJ12640295, May 23, 2023.) The trial judge determined that bifurcation was not appropriate and decided to set the matter on the issues of injury arising out of and occurring in the course of employment (AOE/COE) and defendant’s objections to the QME. (Minutes of Hearing, ADJ12640295, June 27, 2023.) The matter thereafter proceeded to four priority conferences.

The first priority conference was continued because applicant’s attorney had a family emergency. (Minutes of Hearing, ADJ12640295, August 24, 2023.) At the next hearing, the parties jointly requested a continuance as a QME supplemental report was pending. (Minutes of Hearing, ADJ12640295, October 10, 2023.) At the next hearing the parties requested additional time to review the recently received QME report. (Minutes of Hearing, ADJ12640295, December 12, 2023.)

At the next hearing the WCJ set the matter for trial with the following notes in the minutes:

DEFENDANT IS REQUESTING TRIAL ON AOE/COE. PER THE PARTIES THERE ARE COMPENSABILITY FINDINGS FROM PTP AND QME. DEFENDANT OBJECTS TO THE SUBSTANTIALITY OF THE QME AND SEEKS A REPLACEMENT.

APPLICANT REP REQUESTS A CONTINUANCE TO DO ADDITIONAL DISCOVERY ON NATURE AND EXTENT. PER

APPLICANT REP NOT ALL BODY PARTS HAVE BEEN ADDRESSED BY QME. APPLICANT MIGHT SET DEPOSITION OF QME.

AS THERE ARE COMPENSABILITY REPORTS FROM THE PTP AND QME PER THE PARTIES, MATTER TO BE SET ON ISSUE OF AOE/COE. DISCOVERY REMAINS ONGOING AS TO NATURE AND EXTENT.

JOINT PTCS TO BE FILED BY END OF BUSINESS ON 2/14/2024. FAILURE TO FILE THE JOINT PTCS MAY RESULT IN ISSUE OR EXHIBIT PRECLUSION, OR SANCTIONS AND COSTS.

(Minutes of Hearing, ADJ12640295, February 13, 2024.)

Trial was set for March 18, 2024.

On the morning of trial, Susan Garrett filed a “Petition for Reconsideration or in the alternative Petition for Removal” from the February 13, 2024 minute order setting the matter for trial and denying applicant’s request for a continuance.

Per the WCJ’s Report, the following occurred on the morning of trial:

Defense counsel appeared in person for trial on March 18, 2024. Hearing represented (sic) Francisco Barbosa appeared by phone at 8:30am. As the matter was set for an in person trial, Mr. Barbosa was ordered to appear in person by 10:30am. Mr. Barbosa did not inform the Court that a Petition for Reconsideration had been filed earlier in the morning, and it was not until the Court went into EAMS to obtain a copy of the previous minutes of hearing that the Court became aware of the Petition. In a previous Opinion dismissing Garrett Law's Petition for Reconsideration and Denying their Petition for Removal the Board noted “in the future, when a petition for reconsideration is filed so shortly before a hearing that the WCJ is unable to review it prior to the hearing, the filing party should immediately alert the WCJ to the petition's existence at the first possible opportunity.” (FN 1 See ADJ14456607 – MELANIE SEDANO – Footnote 2 on Page 4.) This was not done by Mr. Barbosa.

Mr. Barbosa appeared in person at 10:30am but did not have his file and as such, was unable to discuss any substantive issues. Mr. Barbosa informed the Court that he was told by his office that he did not need to make an in person appearance at the start of the trial. Mr. Barbosa was ordered to have his supervising attorney Susan Garrett call in. The Court admonished Ms. Garrett for instructing

her hearing representative not to appear in person at 8:30am for the in person trial and also for withholding the trial file from the hearing representative despite the matter being set for trial. **Ms. Garrett indicated that since a Petition for Reconsideration had been filed she believed an in person appearance was not necessary.** The Court flagged for Ms. Garrett that this is not the first petition for reconsideration that has been filed the morning of trial on what is clearly a dispute over an interlocutory order, and in the context of this practice it could appear that these morning-of-filings were being used as a delay tactic or as an attempt to avoid having her hearing representatives appear in person for trial. **Ms. Garrett informed the Court she was only aware of this current Petition.**

(Report and Recommendation on Applicant’s Petition for Reconsideration or in the Alternative Removal, March 19, 2024, ADJ12640295, pp. 4-5, (emphasis added).)

DISCUSSION

I.

“Consolidation may be ordered by the Workers’ Compensation Appeals Board on its own motion[.]” (Cal. Code Regs., tit. 8, § 10396(b).) Here, consolidation is appropriate as these matters involve common issues of fact and law, and consolidation avoids the issuance of duplicate or inconsistent orders and promotes the efficient use of judicial resources by deciding these matters in a single proceeding. (Cal. Code Regs., tit. 8, § 10396(a).)

As discussed further below, in each of these cases, three (3) instances total, attorney Susan Garrett and hearing representative Lance Garrett each appear to have engaged in the similar tactic of objecting to trial settings, then filing a petition for reconsideration of the order setting the matter for trial on or near the day of trial and then failing to appear at trial. It appears that Susan Garrett and Lance Garrett are each aware that the effect of filing a petition for reconsideration is to halt further proceedings at the trial level. (Cal. Code Regs., tit. 8, § 10961.) It appears that the sole purpose for seeking reconsideration was to delay a trial date after objecting to a trial setting. The volume of petitions that continue to be filed by Susan Garrett and Lance Garrett with similar fact patterns appears to evidence an intentional course of conduct, which further warrants consolidation of these proceedings. (See *Ledezma, supra*.)

Thus, we issue an order consolidating the three (3) cases discussed above so that we may address the issues of sanctions and reasonable expenses, including costs and attorney’s fees.

II.

We have previously stated the standard for reconsideration in *Alfredo Ledezma et al. v. Kareem Cart Commissary and Mfg. et al.*, 2024 Cal. Wrk. Comp. LEXIS 12 (Appeals Board En Banc).⁴

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).)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).)⁶

⁴ As the grounds for sanctions here appear nearly identical to those found in *Ledezma*, the following is adopted nearly verbatim from the opinion in *Ledezma*. However, for ease of reading we have omitted block quoting and citations.

⁵ 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."

⁶ We note that in most of these cases, it does not appear that Susan Garrett has filed the appropriate notices required to allow a hearing representative to appear on her behalf. In many of these cases, we were unable to identify anything in the record indicating that applicant was informed that a hearing representative would appear on their behalf. Moreover, in those cases where the applicant is not informed of the use of hearing representatives and a notice of representation is not on file, it is unclear why Lance Garrett is signing petitions for reconsideration. Susan Garrett and Lance Garrett are admonished that they are required to comply with WCAB Rules, specifically:

"A non-attorney representative shall file and serve a notice of representation **before** filing a document or appearing on behalf of a party unless the information required to be included in the

Section 5813 permits the Workers' Compensation Appeals Board to award reasonable expenses, including attorney's fees and costs to any party, which result from "... bad-faith actions or tactics that are **frivolous** or **solely intended to cause unnecessary delay**." (§ 5813, (emphasis added).)

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) then 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:

(1) Failure to appear or appearing late at a conference or trial where a reasonable excuse is not offered or the offending party has demonstrated a pattern of such conduct.

(2) Filing a pleading, petition or legal document unless there is some reasonable justification for filing the document.

(4) Failing to comply with the Workers' Compensation Appeals Board's Rules of Practice and Procedure . . . or with any award or order of the Workers' Compensation Appeals Board, including an order of discovery, which is not pending on reconsideration, removal or appellate review and which is not subject to a timely petition for reconsideration, removal or appellate review. . .

(5) Executing a declaration or verification to any petition, pleading or other document filed with the Workers' Compensation Appeals Board: (A) That:

(i) Contains false or substantially false statements of fact;

notice of representation is set forth on an opening document." (Cal. Code Regs., tit. 8, § 10401(c), (emphasis added).)

"A non-attorney representative whose name is not on the notice of representation must file a notice of appearance as provided in rule 10751 **before** appearing before the Workers' Compensation Appeals Board." (Cal. Code Regs., tit. 8, § 10401(f), (emphasis added).)

- (ii) Contains statements of fact that are substantially misleading;
- (iii) Contains substantial misrepresentations of fact;
- (iv) Contains statements of fact that are made without any reasonable basis or with reckless indifference as to their truth or falsity;
- (v) Contains statements of fact that are literally true, but are intentionally presented in a manner reasonably calculated to deceive; and/or
- (vi) Conceals or substantially conceals material facts . . .

(6) Bringing a claim, conducting a defense or asserting a position:

(A) That is:

- (i) Indisputably without merit;
- (ii) Done solely or primarily for the purpose of harassing or maliciously injuring any person; and/or
- (iii) Done solely or primarily for the purpose of causing unnecessary delay or a needless increase in the cost of litigation . . .

(7) Presenting a claim or a defense, or raising an issue or argument, that is not warranted under existing law . . .

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

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

A petition for reconsideration may properly be taken only from a “final” order, decision, or award. (Lab. Code, §§ 5900(a), 5902, 5903.) A “final” order has been defined as one that either “determines any substantive right or liability of those involved in the case” (*Rymer v. Hagler* (1989) 211 Cal.App.3d 1171, 1180; *Safeway Stores, Inc. v. Workers’ Comp. Appeals Bd. (Pointer)* (1980) 104 Cal.App.3d 528, 534-535 [45 Cal.Comp.Cases 410]; *Kaiser Foundation Hospitals v. Workers’ Comp. Appeals Bd. (Kramer)* (1978) 82 Cal.App.3d 39, 45 [43 Cal.Comp.Cases 661]) or determines a “threshold” issue that is fundamental to the claim for benefits. (*Maranian v. Workers’ Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1070, 1075 [65 Cal.Comp.Cases 650].) Interlocutory procedural or evidentiary decisions, entered in the midst of the workers’ compensation proceedings, are not considered “final” orders. (*Id.* at p. 1075 [“interim orders, which do not decide a threshold issue, such as intermediate procedural or evidentiary decisions, are not ‘final’ ”]; *Rymer, supra*, at p. 1180 [“[t]he term [‘final’] does not include intermediate

procedural orders or discovery orders”]; *Kramer, supra*, at p. 45 [“[t]he term [‘final’] does not include intermediate procedural orders”].) Such interlocutory decisions include, but are not limited to, pre-trial orders regarding evidence, discovery, **trial setting**, venue, or similar issues.

The above language has been used in dozens, if not hundreds of panel decisions issued by the Appeals Board, including the August 28, 2023 Opinion served upon Garrett Law Group in *Alfredo Ledezma* (ADJ15382349; ADJ15382351). (See, e.g., *Navroth v. Mervyn’s Stores*, 2023 Cal. Wrk. Comp. P.D. LEXIS 318, *4; *Mendoza v. Rapid Manufacturing*, 2023 Cal. Wrk. Comp. P.D. LEXIS 240, *2; *Ramirez v. Vons, PSI*, 2022 Cal. Wrk. Comp. P.D. LEXIS 316, *5.)⁷ The Appeals Board has consistently issued opinions stating that orders affecting trial setting are not final orders subject to reconsideration. In sum, **an order setting a matter for trial is not a final order** because it does not resolve a threshold issue in a case. Thus, a party who disagrees with an order setting a matter for trial should only seek removal in response to that order, not reconsideration.

In some cases, a WCJ may issue a hybrid decision that includes both final and non-final orders, or awards. For example, a decision that finds industrial injury (a final finding), but orders further development of the record on nature and extent of injury (an interlocutory order) would be a hybrid decision. Where a party is appealing a hybrid decision, but only seeks relief with respect to an interlocutory order, or where there is **genuine** confusion as to whether a decision is final, a party may file a petition seeking both reconsideration and/or removal. **A party may only file an alternative petition for reconsideration where good cause exists to believe that a final decision, order, or award issued.** When a petition is titled as a petition for reconsideration, even in the alternative, the Appeals Board must process it as a petition for reconsideration, which halts proceedings at the trial level. (Cal. Code Regs., tit. 8, § 10961 [limiting the WCJ’s power to act upon filing a petition for reconsideration].) Filing an alternative petition for reconsideration when it is not warranted is sanctionable. When a party files for reconsideration in response to an order

⁷ Unlike en banc decisions, panel decisions are not binding precedent on other Appeals Board panels and WCJs. (See *Gee v. Workers’ Comp. Appeals Bd.* (2002) 96 Cal.App.4th 1418, 1425 fn. 6 [67 Cal.Comp.Cases 236].) However, panel decisions are citable authority, and the Appeals Board may consider these decisions to the extent that their reasoning is found persuasive, particularly on issues of contemporaneous administrative construction of statutory language. (See *Guitron v. Santa Fe Extruders* (2011) 76 Cal.Comp.Cases 228, fn. 7 (Appeals Board en banc); *Griffith v. Workers’ Comp. Appeals Bd.* (1989) 209 Cal.App.3d 1260, 1264, fn. 2 [54 Cal.Comp.Cases 145].) Here, we refer to these panel decisions to show continuity amongst our prior panel decisions, which have repeatedly stated that orders affecting trial setting are not final orders.

setting the matter for trial, it would appear that the sole purpose is to obtain their initial objective: stop the trial from proceeding. Here, the only orders that issued were orders setting the matter for trial. In response to these orders, Lance and Susan Garrett filed alternative petitions for reconsideration.

It appears that in each of these cases Garrett Law Group through Susan Garrett or its hearing representative Lance Garrett, while supervised by attorney Susan Garrett, objected to the setting of trials in multiple cases. Then Susan Garrett and Lance Garrett **waited until the day of trial** to file petitions for reconsideration in lieu of appearing for trial and to prevent the matters from proceeding, even though they were given notice by the Appeals Board in a prior decision that reconsideration is not proper from an order setting the matter for trial. That is, based upon the timing of their filings, it appears that they filed the petitions for reconsideration solely to delay the trial proceedings in each case, as evidenced by their action of not appearing at trial in each case and not ensuring that their client appeared. We emphasize that filing a petition for reconsideration does not by itself excuse any party from appearing at a properly noticed hearing because only the Workers' Compensation Appeals Board can excuse an appearance.⁸ Moreover, their delay in filing for removal on or near the day of trial would not have provided sufficient time for the Appeals Board to act.

Filing petitions for reconsideration designed to delay a trial can be described as frivolous and/or bad-faith conduct, which is sanctionable. (See *United States Fire Ins. Co. v. Workers' Comp. Appeals Bd. (Palafox)* (2013), 78 Cal.Comp.Cases 1021 [2013 Cal. Wrk. Comp. LEXIS 137].) Based upon our review of the record, it appears that the following same or similar sanctionable conduct has occurred in each of these cases:

1. In *Abel Hidalgo* (ADJ13332737), it appears that Lance Garrett signed a petition for reconsideration, which was verified by Susan Garrett, that appears to have been filed with willful intent to disrupt or delay the proceedings of the Workers' Compensation Appeals Board or with an improper motive, or was an action that appears to be indisputably without merit.

⁸ WCAB Rule 10745 (Cal. Code Regs., tit. 8, § 10745) states in pertinent part that: "The Workers' Compensation Appeals Board may, on its own motion with or without notice, set any case for any type of hearing and may order that hearings be conducted electronically." WCAB Rule 10752(a) (Cal. Code Regs., tit. 8, § 10752(a)) requires that every party appear or have a representative appear at all hearings. Subdivision (d) states in part that: "[a]ny appearance required by this rule may be excused by the Workers' Compensation Appeals Board." When a petition for reconsideration is filed and a hearing is on calendar, parties must diligently coordinate with opposing counsel and the court and request that the matter be taken off calendar. Otherwise, they must appear until excused by the court.

2. In *Maria Ayala* (ADJ15218980), it appears that Lance Garrett signed a petition for reconsideration, which was verified by Susan Garrett, that appears to have been filed with willful intent to disrupt or delay the proceedings of the Workers' Compensation Appeals Board or with an improper motive, or was an action that appears to be indisputably without merit.

3. In *Marta Meza* (ADJ12640295), it appears that Lance Garrett signed a petition for reconsideration, which was verified by Susan Garrett, that appears to have been filed with willful intent to disrupt or delay the proceedings of the Workers' Compensation Appeals Board or with an improper motive, or was an action that appears to be indisputably without merit.

To be clear, the sole issue for sanctions and costs before us is the filing of petitions for reconsideration with what appears to be willful intent to disrupt or delay the proceedings of the Workers' Compensation Appeals Board or with an improper motive, or which appear to be actions that were indisputably without merit. Other issues involving sanctions and costs may exist in the record of each case and it appears that in some cases, petitions for sanctions and/or costs have been filed regarding other conduct. Our notice of intent does not preclude further action once the matters are returned to the trial level.

Thus, we issue notice of our intent to impose sanctions as follows:

- (1) **Sanctions of up to \$2,500.00 against Susan Garrett in three (3) instances** where it appears that she filed petitions for reconsideration with willful intent to disrupt or delay the proceedings of the Workers' Compensation Appeals Board or with an improper motive, or where it appears that such actions were indisputably without merit (**up to \$7,500.00 total**).
- (2) **Sanctions of up to \$2,500.00 against Lance Garrett in three (3) instances** where it appears that he filed petitions for reconsideration with willful intent to disrupt or delay the proceedings of the Workers' Compensation Appeals Board or with an improper motive, or where it appears that such actions were indisputably without merit (**up to \$7,500.00 total**).
- (3) **Reasonable expenses, including attorney's fees and costs**, associated with the petitions for reconsideration filed in each of these matters. If awarded, the issue of the amount of expenses will be deferred to the trial level.

WCAB Rule 10421(a) (Cal. Code Regs., tit. 8, § 10421(a)) requires that: "Before issuing such an order, the alleged offending party or attorney must be given notice and an opportunity to

be heard. In no event shall the Workers' Compensation Appeals Board impose a monetary sanction pursuant to Labor Code section 5813 where the one subject to the sanction acted with reasonable justification or other circumstances make imposition of the sanction unjust."

Therefore, Susan Garrett and Lance Garrett each may file separate written objections in which good cause 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. The objections shall be filed only with the Office of the Commissioners of the Workers' Compensation Appeals Board at its street address (455 Golden Gate Avenue, 9th Floor, San Francisco, CA 94102), its e-mail address (WCABgrantforstudy@dir.ca.gov), or electronically filed in the Electronic Adjudication System (EAMS). To be timely, any written response *must be received* at one of those addresses or electronically filed in 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.**

If awarded, the issue of the amount of expenses will be deferred to the trial level, so that any response raising the issue of the amount of expenses shall not be filed at this time and will not be considered.

Accordingly, we order consolidation of these matters, and issue notices of intent to impose sanctions up to \$2,500.00 for each action and award reasonable expenses, including attorney's fees and costs against Susan Garrett and separately against Lance Garrett.

For the foregoing reasons,

IT IS ORDERED that per WCAB Rule 10396 (Cal. Code Regs., tit. 8, § 10396), the following cases are **CONSOLIDATED** for the limited purpose of deciding the issues of sanctions and reasonable expenses, including attorney's fees and costs, related to the filing of petitions for reconsideration:

<u>Case Number(s)</u>	<u>Applicant</u>	<u>Defendant(s)</u>
ADJ13332737	Abel Hidalgo	Roman Catholic Archbishop; Sedgwick
ADJ15218980	Maria Ayala	Murphy's Star Inc., dba Carl's Jr.; Arch Ins.
ADJ12640295	Marta Meza	Real Time Staffing Services, LLC, dba Select Staffing; XL Ins. Co.

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 that pursuant to Labor Code section 5813 and Appeals Board Rule 10421 (Cal. Code Regs., tit. 8, § 10421) the Workers' Compensation Appeals Board will order **SUSAN GARRETT** (CA BAR #195580), to pay sanctions and reasonable expenses, including attorney's fees and costs, as follows:

1. In *Abel Hidalgo* (ADJ13332737), sanctions of up to \$2,500.00 payable to the General Fund and reasonable expenses, including costs and attorney's fees.

2. In *Maria Ayala* (ADJ15218980), sanctions of up to \$2,500.00 payable to the General Fund and reasonable expenses, including costs and attorney's fees.

3. In *Marta Meza* (ADJ12640295), sanctions of up to \$2,500.00 payable to the General Fund and reasonable expenses, including costs and attorney's fees.

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 that pursuant to Labor Code section 5813 and Appeals Board Rule 10421 (Cal. Code Regs., tit. 8, § 10421) the Workers' Compensation Appeals Board will order **LANCE GARRETT**, to pay sanctions and reasonable expenses, including attorney's fees and costs, as follows:

1. In *Abel Hidalgo* (ADJ13332737), sanctions of up to \$2,500.00 payable to the General Fund and reasonable expenses, including costs and attorney's fees.

2. In *Maria Ayala* (ADJ15218980), sanctions of up to \$2,500.00 payable to the General Fund and reasonable expenses, including costs and attorney's fees.

3. In *Marta Meza* (ADJ12640295), sanctions of up to \$2,500.00 payable to the General Fund and reasonable expenses, including costs and attorney's fees.

IT IS FURTHER ORDERED that all responses to these notices *by any party* must be filed within twenty (20) days plus five (5) additional days for mailing (Cal. Code Regs., tit. 8, §§ 10605(a)(1), 10600) after service of these Notices, and shall be filed only with the Office of the Commissioners of the Workers' Compensation Appeals Board at its street address (455 Golden Gate Avenue, 9th Floor, San Francisco, CA 94102), its e-mail address (WCABgrantforstudy@dir.ca.gov), or electronically filed in the Electronic Adjudication System (EAMS). To be timely, any written response ***must be received*** at one of those addresses or electronically filed in 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.

No response to the issue of the amount of expenses shall be filed at this time, and any response to this notice that raises the issue of the amount of expenses will not be considered.

WORKERS' COMPENSATION APPEALS BOARD (EN BANC)

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ JOSÉ H. RAZO, COMMISSIONER

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

/s/ CRAIG SNELLINGS, COMMISSIONER

/s/ JOSEPH V. CAPURRO, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

June 17, 2024



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

**ABEL HIDALGO
MARIA AYALA
MARTA MEZA
DANYAL ROODBARI
GARRETT LAW GROUP
COLANTONI, COLLINS, MARREN, PHILLIPS & TULK
SAPRA & NAVARRA
MISA STEFAN KOLLER WARD**

EDL/abs

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