

LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD

STATE OF HAWAII

XIU MING WU,
Claimant-Appellee-
Appellee, Deceased,
vs.
KAI HUA SUN,
Employer-Appellant-
Appellee, Delinquent,
and
WILLIAM A. MCCLARY,
Appellee-Appellee,
and
ADAM C. WONG AND CHELSIE M.
WONG,
Appellee-Appellant,
and
INTERNATIONAL STEEL CONCEPTS
CORP.,
Appellee-Appellee,
and
SPECIAL COMPENSATION FUND,
Appellee-Appellee.

SURVIVORS OF XIU MING WU,
Claimant-Appellee,
vs.
KAI HUA SUN,
Employer-Appellee,
Delinquent,
and
WILLIAM A. MCCLARY,
Appellee,
and
ADAM C. WONG AND CHELSIE M.
WONG,
Appellant,
and
INTERNATIONAL STEEL CONCEPTS
CORP.,
Appellee,
and
SPECIAL COMPENSATION FUND,
Appellee.

CASE NO.: AB 2009-612(T2)
DCD No.: 2-09-02854

Date of Accident: March 31, 2008

Sep 25 2025, 7:45 am

FILED_{akw}

Labor and Industrial Relations
Appeals Board

ORDER VACATING THE DIRECTOR'S MAY 16, 2025 DECISION AND
ORDER FOR TEMPORARY REMAND

This workers' compensation case is before the Labor and Industrial Relations Appeals Board ("Board") as a result of the appeals of two claims: (1) a workers' compensation claim filed by Claimant XIU MING WU for an injury allegedly arising out of and in the course of employment on March 31, 2008; and (2) a dependents' claim for compensation filed on April 24, 2024 and amended on May 21, 2024, by SURVIVORS OF XIU MING WU.

For the reasons as discussed, below, the Board vacates the Decision Supplemental to Award Dated 12/4/2009, entered by the Director of Labor and Industrial Relations on May 16, 2025 and temporarily remands the proceedings on appeal in Case No. AB 2009-612(T2) (2-09-02854) to the Director with instructions.

FINDINGS OF FACT

1. Claimant XIU MING WU alleged that he sustained a "low back, spinal fracture" injury on March 31, 2008 while in the employ of Employer, Delinquent KAI HUA SUN when a wall fell on him.

2. Claimant XIU MING WU, who, at the time was represented by Wayne H. Mukaida, Esq. ("Mr. Mukaida"), filed a WC-5 Employee's Claim for Workers' Compensation Benefits ("WC-5") on March 20, 2009.

3. Claimant's claim for an injury occurring on March 31, 2008 was designated as Disability Compensation Division ("DCD") Case No. 2-09-02854.

4. Claimant's WC-5 alleges that his injury occurred at 3716

Campbell Avenue.

5. According to a document prepared by WILLIAM A. MCCLARY, dated December 3, 2007, 3176 Campbell Avenue is the project address belonging to homeowner ADAM [C.] WONG.

6. In this December 3, 2007 document, WILLIAM A. MCCLARY identifies himself as a consultant for the project located at 3176 Campbell Avenue.

7. The December 3, 2007 document prepared by WILLIAM A. MCCLARY also states that BLUE STONE was the supplier of a steel frame package for this project.

8. The December 3, 2007 document prepared by WILLIAM A. MCCLARY also lists INTERNATIONAL STEEL CONCEPTS CORP. as the agent of BLUE STONE.

9. The December 3, 2007 document prepared by WILLIAM A. MCCLARY refers to JO BAUTISTA as a “consultant.”¹

10. According to a June 5, 2009 letter from Leighton K. Oshima, Esq., who, at the time of this letter, represented ADAM C. WONG AND CHELSIE M. WONG, potential employers or statutory employers included QUALITY DESIGN BUILDERS, INTERNATIONAL STEEL CONCEPTS CORP., and “Blue Scope,” which is understood to refer to BLUE STONE.

11. On September 22, 2009, the DCD issued a Notice of Hearing

¹ Jo Bautista’s contact information was listed as: Phone (808) 454-0176; Cell (808) 722-1873.

for a hearing scheduled on October 7, 2009 at 8:30 a.m. The persons provided with notice for this hearing included:

- a. Claimant XIU MING WU and Mr. Mukaida;
- b. Employer, Delinquent KAI HUA SUN and his then attorney, Harrison L. Kiehm, Esq.;
- c. ADAM C. [WONG] AND CHELSIE M. WONG;
- d. WILLIAM [A.] MCCLARY;
- e. KAS CONSTRUCTION & DESIGN, INC. and their attorney, Clyde Umebayashi, Esq.; and
- f. The SPECIAL COMPENSATION FUND ("SCF") and their then attorney Robyn M. Kuwabe, Esq.

12. The DCD's September 22, 2009 Notice of Hearing did not notice or inform the following parties of the October 7, 2009 hearing: BLUE STONE; INTERNATIONAL STEEL CONCEPTS CORP.; QUALITY DESIGN BUILDERS; and JO BAUTISTA.

13. On December 4, 2009, the Director of Labor and Industrial Relations issued a Decision in DCD Case No. 2-09-02854 ("December 4, 2009 Decision").

14. In relevant part, the Director determined that Claimant XIU MING WU was an employee of Employer, Delinquent KAI HUA SUN at the time of Claimant's alleged injury of March 31, 2008. The Director also determined that Claimant XIU MING WU suffered injuries to his back arising out of and in the course of employment and that Employer, Delinquent KAI HUA SUN is liable to Claimant XIU MING WU for workers' compensation benefits pursuant to Chapter 386, Hawaii Revised Statutes ("HRS"). The Director concluded that

Employer, Delinquent KAI HUA SUN was non-compliant with respect to HRS §§ 386-121 and 386-122.

15. The Director further determined that WILLIAM A. MCCLARY (referred to as “Bill McClary” in the December 4, 2009 Decision) was also a “potential non-compliant employer” and should be investigated, “but not as the claimant’s employer.”

16. The parties listed on the December 4, 2009 Decision were Claimant XIU MING WU; Employer, Delinquent KAI HUA SUN; and the SPECIAL COMPENSATION FUND (“SCF”).

17. The December 4, 2009 Decision does not reflect and the record does not confirm that a copy of the December 4, 2009 Decision was sent to ADAM C. WONG AND CHELSIE M. WONG; WILLIAM A. MCCLARY; and KAS CONSTRUCTION & DESIGN, INC.

18. On December 22, 2009, Employer, Delinquent KAI HUA SUN filed an appeal to the Board of the Director’s December 4, 2009 Decision. This appeal was designated as Case No. AB 2009-612.

19. On March 17, 2010, Claimant XIU MING WU filed an additional WC-5 form with an attachment that identified the following persons or entities as potential employers or statutory employers:

- a. WILLIAM [A.] MCCLARY;
- b. INTERNATIONAL STEEL CONCEPTS CORP.;
- c. DAVID WALL;
- d. BLUE STONE; and

e. ADAM C. WONG AND CHELSIE M. WONG.

20. On April 22, 2010, the Board, at the request of the SCF, amended its caption and joined the following parties to Case No. AB 2009-612 (2-09-02854): WILLIAM [A.] MCCLARY; ADAM C. WONG AND CHELSIE M. WONG; and KAS CONSTRUCTION & DESIGN, INC.

21. On May 12, 2010, the Board issued a Pretrial Order. The following issues were identified as Employer, Delinquent KAI HUA SUN's issues on appeal:

- a. Whether Claimant XIU MING WU was an employee of Employer, Delinquent KAI HUA SUN on March 31, 2008;
- b. If not, whether Claimant XIU MING WU was an employee of WILLIAM A. MCCLARY or KAS CONSTRUCTION & DESIGN, INC. or ADAM C. WONG AND CHELSIE M. WONG; and
- c. If Claimant XIU MING WU was an employee, whether he sustained a work injury to his back on March 31, 2008, arising out of and in the course of employment.

22. On January 6, 2011, at the request of Claimant XIU MING WU, the Board entered an Order Temporarily Remanding Proceeding. Although not expressly stated in the Board's January 6, 2011 order, it appears that the purpose of the temporary remand was so that the Director could determine the SCF's liability for payment of compensation to Claimant XIU MING WU, pursuant to HRS § 386-56.

23. On June 21, 2011, the United States Bankruptcy Court, District of Hawaii, in a Chapter 7 case, granted a DISCHARGE OF DEBTOR(S) in favor of WILLIAM ALBERT MCCLARY, referred herein as WILLIAM A.

MCCLARY.

24. It is not clear from the record whether Claimant XIU MING WU'S workers' compensation claim (WC-5) was listed as a debtor or liability that was considered a part of WILLIAM A. MCCLARY's Chapter 7 Bankruptcy discharge.

25. On November 29, 2013, the Director entered a Decision Supplemental to Award Dated 12/4/2009 ("November 29, 2013 Supplemental Decision").

26. In relevant part, the Director determined that ADAM C. WONG [AND CHELSIE M. WONG] were liable for workers' compensation benefits to Claimant XIU MING WU, as the independent or general contractor who is above Employer, Delinquent KAI HUA SUN.

27. The Director's November 29, 2013 Supplemental Decision does not reflect and the record does not confirm that WILLIAM A. MCCLARY; ADAM C. WONG AND CHELSIE M. WONG; and KAS CONSTRUCTION & DESIGN, INC. were served with a copy of the Director's November 29, 2013 Supplemental Decision.

28. Following the Director's November 29, 2013 Supplemental Decision, this case was returned to the jurisdiction of the Board, at which time this matter should have been designated as Case No. AB 2009-612(T).

29. On February 21, 2014, ADAM C. WONG AND CHELSIE M. WONG filed an appeal of the Director's November 29, 2013 Supplemental Decision.

30. The Board issued amended pretrial orders on August 29, 2014 and January 7, 2015.

31. On April 10, 2015, the Board entered an Order Continuing Trial. The Board's April 10, 2015 order confirmed that, at the April 10, 2015 trial or hearing before the Board, the parties stipulated to dismiss with prejudice KAS CONSTRUCTION & DESIGN, INC. and its insurance carrier, ISLAND INSURANCE COMPANIES from this case.

32. On April 21, 2015, the Board filed a Stipulation for Dismissal with Prejudice of KAS CONSTRUCTION & DESIGN, INC. and ISLAND INSURANCE COMPANIES.

33. On May 20, 2015, the Board issued an Order Vacating the Director's November 29, 2013 Decision. Therein, the Board recognized the following entities as potential employers or statutory employers, per Claimant's March 17, 2010 WC-5:

- a. WILLIAM A. MCCLARY;
- b. INTERNATIONAL STEEL CONCEPTS CORP.;
- c. DAVID WALL;
- d. BLUE STONE supplier/distributor/consultant/
representative; and
- e. ADAM C. WONG AND CHELSIE M. WONG.

In vacating the Director's November 29, 2013 Supplemental Decision, the Board determined that the Director did not provide notices of hearing to INTERNATIONAL STEEL CONCEPTS CORP.; DAVID WALL; and/or BLUE

STONE supplier/distributor/consultant/representative.

34. Following a motion for reconsideration filed by Claimant XIU MING WU of the Board's May 20, 2015 order, the Board entered a Decision and Order on February 17, 2016. Therein, the Board denied Claimant XIU MING WU's motion for reconsideration. In relevant part, the Board determined that the Director did not provide notice to INTERNATIONAL STEEL CONCEPTS CORP.; DAVID WALL; and BLUE STONE supplier/distributor/consultant prior to a hearing regarding and his entering of the November 29, 2013 Supplemental Decision; that the Director did not address issues as previously instructed by the Board; and that the Director did not send ADAM C. WONG AND CHELSIE M. WONG a copy of the November 29, 2013 Supplemental Decision, despite holding them liable for workers' compensation benefits. The Board vacated the Director's November 29, 2013 Supplemental Decision and temporarily remanded this case to the Director.

35. While this matter was on its second temporary remand before the Director, the record reflects that a hearing before the Director was delayed because of difficulties and confusion associated with ascertaining the identities, contact information, and/or addresses of all potential employers or statutory employers in DCD Case No. 2-09-02854.

36. While this matter was on its second temporary remand before the Director, on February 22, 2022, Claimant XIU MING WU died (hereinafter "Decedent").

37. A Certificate of Death issued by the State of Hawaii reflects

that Decedent passed away on February 22, 2022 as a result of “Hypoxic brain injury,” “Cardiac arrest,” and “CoVID-19 pneumonia.” His surviving spouse is identified as “Hanbin Lin.”

38. Following Decedent’s passing, the record is devoid of any indication or confirmation that a court-appointed personal representative or special administrator of Decedent’s Estate has appeared in DCD Case No. 2-09-02854.

39. On April 24, 2024, **Nathan Wu** (Date of Birth: October 2, 1986) filed a WC-5A Dependents’ Claim for Compensation (“WC-5A”) form, identifying himself and **Han Bin Lin**, Decedent’s spouse, as “Survivors of Claimant,” hereinafter identified as SURVIVORS OF XIU MING WU (“Survivors”).

40. On May 21, 2024, Survivors filed an Amended WC-5A form. In relevant part, Survivors allege that the March 31, 2008 injury caused Decedent’s death.

41. On December 23, 2024, the Director issued an Amended Notice of Hearing for a hearing before the DCD scheduled for December 30, 2024 at 8:30 a.m. The Notice of Hearing identifies the following persons:

- a. “Survivors of Xiu Ming Wu;”
- b. Employer, Delinquent KAI HUA SUN and his former attorney, Richard L. Hoke, Jr., Esq.;
- c. WILLIAM A. MCCLARY and his attorney, Dexter T. Higa, Esq.;
- d. DAVID WALL “C/O SURVIVORS OF XIU MING WU;”

- e. ADAM [C. WONG AND] CHESIE M. WONG and their attorney, Brian G.S. Choy, Esq.; and
- f. The SCF and their attorney, William N.K. Crowell, Esq.

42. There is no evidence in the record supporting the notion that DAVID WALL is legally represented by Survivors or that the Survivors may legally accept service on behalf of DAVID WALL.

43. Service of the Director's December 23, 2024 Amended Notice of Hearing upon DAVID WALL through Survivors was improper and insufficient.

44. The Director's December 23, 2024 Amended Notice of Hearing did not provide notice to the following persons or entities of a hearing scheduled for December 30, 2024:

- a. Decedent, through a court-appointed personal representative or special administrator of Decedent's Estate;
- b. DAVID WALL;
- c. INTERNATIONAL STEEL CONCEPTS CORP.;
- d. BLUE STONE;
- e. QUALITY DESIGN BUIDLERS; and
- f. JO BAUTISTA.

45. The Director's December 23, 2024 Amended Notice of Hearing is the last notice of hearing issued prior to the hearing before the DCD that took place on December 30, 2024.

46. Following a DCD hearing on December 30, 2024, the Director issued a Decision Supplemental to Award Dated 12/4/2009 on May

16, 2025 (“May 16, 2025 Supplemental Decision”).

47. The May 16, 2025 Supplemental Decision confirms that, at the December 30, 2024 hearing, the SCF contended that the DCD hearing should be postponed because not all of the parties were properly noticed for the hearing as previously directed by the Board.

48. The May 16, 2025 Supplemental Decision confirms that DAVID WALL did not attend the December 30, 2024 hearing and that the record was absent any contact information for DAVID WALL. The DCD Hearings Officer, however, determined that the hearing should proceed over the SCF’s objection and without DAVID WALL.

49. Although INTERNATIONAL STEEL CONCEPTS CORP. was not provided notice of the December 30, 2024 hearing by way of the Director’s December 23, 2024 Amended Notice of Hearing, the May 16, 2025 Supplemental Decision identifies INTERNATIONAL STEEL CONCEPTS CORP. as a party to Case No. 2-09-02854 on the first page of the May 16, 2025 Supplemental Decision and discusses INTERNATIONAL STEEL CONCEPTS CORP. on page 4 of the May 16, 2025 Supplemental Decision.

50. Although a hearing occurred on December 30, 2024, the Director’s May 16, 2025 Supplemental Decision refers to a notice of hearing which is dated after the December 30, 2024 hearing and for a hearing that was apparently scheduled for April 16, 2025 which did not occur.

51. The Director’s May 16, 2025 Supplemental Decision states that the DCD attempted to serve an Amended Notice of Hearing on

INTERNATIONAL STEEL CONCEPTS CORP. on February 27, 2025 but said notice was returned to the DCD on March 24, 2025 as “RETURN TO SENDER; NO SUCH NUMBER; UNABLE TO FORWARD.”

52. The Director’s May 16, 2025 Supplemental Decision reflects that the April 16, 2025 hearing was cancelled based upon an understanding that INTERNATIONAL STEEL CONCEPTS CORP. would not participate in this hearing, considering that the February 27, 2025 Amended Notice of Hearing was returned to the DCD.

53. The record does not contain the envelope addressed to INTERNATIONAL STEEL CONCEPTS CORP. which transmitted the Director’s February 27, 2025 Amended Notice of Hearing and which was supposedly returned to the DCD on March 24, 2025 as “RETURN TO SENDER; NO SUCH NUMBER; UNABLE TO FORWARD.”

54. There is no evidence or confirmation in the record that the following parties attended the December 30, 2024 hearing before the Director, from which the Director issued a May 16, 2025 Supplemental Decision:

- a. Decedent through a court-appointed personal representative or special administrator of Decedent’s Estate;
- b. DAVID WALL;
- c. INTERNATIONAL STEEL CONCEPTS CORP.;
- d. BLUE STONE;
- e. QUALITY DESIGN BUIDLERS; and
- f. JO BAUTISTA.

55. There is no evidence or confirmation in the record that the following parties could not be served by conventional mail, at their last known addresses, and that they were served notice of the December 30, 2024 hearing, from which the Director issued a May 16, 2025 Supplemental Decision, by means of publication:

- a. Decedent through a court-appointed personal representative or special administrator of Decedent's Estate;
- b. DAVID WALL;
- c. INTERNATIONAL STEEL CONCEPTS, CORP.
- d. BLUE STONE;
- e. QUALITY DESIGN BUILDERS; and
- f. JO BAUTISTA.

56. The Director, by way of the May 16, 2025 Supplemental Decision determined, in relevant part, that WILLIAM A. MCCLARY is dismissed from Case No. 2-09-02854 with prejudice based upon the Discharge of Debtor(s) dated "February 21, 2011" [sic – June 21, 2011]. The Director further determined that ADAM C. WONG AND CHELSIE M. WONG, as the general contractor of the project on which Decedent was working, is secondarily liable for Decedent's March 31, 2008 injury. The Director also denied Survivors' claim for death benefits as being time-barred. The Director declined to address matters pertaining to the SCF's liability.

57. On May 28, 2025, ADAM C. WONG AND CHELSIE M. WONG appealed the Director's May 16, 2025 Supplemental Decision, which appeal is

designated herein as Case No. AB 2009-612(T2).

ANALYSIS

Before embarking upon a discussion of the Board's determination that the Director's May 16, 2025 Supplemental Decision must be vacated, it is essential to recognize that DCD Case No. 2-09-02854 (D/A: March 31, 2008) involves two (2) claims: (1) The underlying workers' compensation claim filed by Decedent whilst he was still alive ("WC-5"); and (2) The claim for dependents' benefits, filed by Survivors, following Decedent's death on February 22, 2022 ("WC-5A"). These are two (2) separate and distinct claims. The format of the Director's May 16, 2025 Supplemental Decision does not make this clear, as the first page of the decision only identifies Survivors as the "Claimant," while failing to recognize Decedent as the "Claimant," as well. Yet, the content of the May 16, 2025 Supplemental Decision demonstrates that the Director determined issues related to both the underlying workers' compensation claim filed by Decedent (WC-5), as well as the Survivors' claim for benefits (WC-5A).²

It is also imperative to recognize that before the Director (or the Board) deprives anyone of their property, due process must be ensured. It is well-settled that this includes, but is not limited to, the right to notice and an opportunity to be heard. Such adherence to procedural due process ensures fair treatment and protects individuals against arbitrary action.

² The Director made determinations regarding the identity of and liability of employers and statutory employers which are issues related to Decedent's underlying workers' compensation claim (WC-5). The Director also entered an order denying Survivors' dependents' claim for benefits (WC-5A).

It is with this understanding that we analyze the procedural history of the two (2) claims in DCD Case No. 2-09-02854 (D/A: March 31, 2008) and the process giving rise to the Director's May 16, 2025 Supplemental Decision.

A. Claim No. 1: Decedent's WC-5 Claim

1. **Decedent as a party.**

It is apparent that with respect to the December 30, 2024 DCD hearing, upon which the May 16, 2025 Supplemental Decision was based, the legal representative, if any, of Decedent was not given notice of the hearing. Further, the legal representative, if any, of Decedent was not provided with a copy of the May 16, 2025 Supplemental Decision. This is a violation of due process. The Director may have understandably but erroneously assumed that because the Decedent's spouse (**Han Bin Lin**) and son (**Nathan Wu**) were given notice of and were present at the December 30, 2024 hearing, as Survivors, they represented Decedent's interests. Without more, they do not.

We begin our analysis with the well-established principle that "[a] deceased person cannot be a party to a legal proceeding. . ." *Bagalay v. Lahaina Restoration Foundation*, 60 Haw. 125, 135, 588 P.2d 416, 426 (1978). The Supreme Court of Hawaii goes on to explain that once a party is deceased, "the effect of death is to suspend the action as to the decedent until his legal representative is substituted as a party." *Id.* (underline added). In this case, the Director was informed of Decedent's passing on April 24, 2024 when the Survivors filed their WC-5A. At that time, this case was before the Director on

temporary remand from the Board. Upon being so informed of the death of Claimant XIU MING WU, the Director should have suspended all proceedings until Decedent's legal representative was identified and substituted in as a party to the proceeding before the Director. In this instance, the Director did not do so.

This brings us to the next question as to ascertaining the identity of a claimant's legal representative. In the event that the injured employee is represented by an attorney, that attorney can no longer serve as the claimant's attorney upon the claimant's death. The *Bagalay* Court made clear:

As a general rule, the authority of counsel to proceed with a case is terminated upon the death of the party being represented . . . but the courts can pass upon questions raised and listen to suggestions as to their disposal from an attorney who is an officer of the court . . .

Id. (underline added). Accordingly, in this instance, Mr. Mukaida, the Decedent's workers' compensation attorney, cannot be considered to represent Decedent. (It is noted that the Director correctly omitted Mr. Mukaida from the December 23, 2024 Amended Notice of Hearing regarding the December 30, 2024 DCD hearing.)

It also cannot be presumed that the claimant or injured employee's heir or next of kin is the proper legal representative of a deceased claimant or injured employee:

. . . an heir of an undistributed estate, who has not been judicially appointed as the personal representative of a decedent's estate, is not a 'proper party' for

substitution

Roxas v. Marcos, 89 Haw. 91, 122, 969 P.2d 1209, 1240 (1998), (analyzing the application of HRCP Rule 25(a)(1) and citations omitted). Thus, in this instance, it is improper to assume that Decedent's widow (**Han Bin Lin**) and/or son (**Nathan Wu**) was/were the "proper party" to be substituted for Decedent.

Rather, the only person who may be properly substituted for a deceased claimant or injured employee is a judicially appointed personal representative or special administrator of the deceased's estate:

The majority rule in other jurisdictions is that only judicially appointed representatives may be substituted for a decedent party.

Id. (citations omitted). That is, only a personal representative or a special administrator who is appointed by a court with the authority to do so may be considered Decedent's legal representative to be substituted in for Decedent in Case No. 2-09-02854. The following legal authorities are relevant:

§ 560:1-302(a), HRS: "To the full extent permitted by the Constitution and except as otherwise provided by law, the court has jurisdiction over all subject matter relating to: (1) Estates of decedents, including construction of wills and determination of heirs and successors of decedents, and estates of protected persons"

§ 560:3-103, HRS: "Except as otherwise provided in article IV, to acquire the powers and undertake the duties and liabilities of a personal representative of a decedent, a person must be appointed by order of the court or registrar, qualify and be issued letters. Administration of an estate is commenced by the issuance of letters."

§ 560:3-105: “Persons interested in decedents’ estates may apply to the registrar for determination in the informal proceedings provided in this article, and may petition the court for orders in formal proceedings within the court’s jurisdiction including but not limited to those described in this article. The court has exclusive jurisdiction of formal proceedings to determine how decedents’ estates, subject to the laws of this State, are to be administered, expended, and distributed. The court has concurrent jurisdiction of any other action or proceeding concerning a succession or to which an estate, through a personal representative, may be a party, including actions to determine title to property alleged to belong to the estate, and of any action or proceeding in which property distributed by a personal representative or its value is sought to be subjected to rights of creditors or successors of the decedent.”

§ 560:3-703(c): “Except as to proceedings which do not survive the death of the decedent, a personal representative of a decedent domiciled in this State at the decedent’s death has the same standing to sue and be sued in the courts of this State and the courts of any other jurisdiction as the decedent had immediately prior to death.”

In this case, the record is devoid of Letters of Administration filed by the appropriate Probate Court, demonstrating that Decedent’s widow (**Han Bin Lin**) and/or son (**Nathan Wu**) was/were judicially appointed as the personal representative or special administrator of Decedent’s Estate.

Thus, in this case, once Claimant XIU MING WU died, and without a court-appointed personal representative or special administrator having been

identified and substituted into the case, the Director should have held the proceedings in abeyance and initiated a process to identify the Decedent's court-appointed personal representative or special administrator³. There is no indication in the record that any effort was made by the Director to ascertain the identity of the Decedent's court-appointed personal representative or special administrator, and there is no evidence that the December 24, 2024 Amended Notice of Hearing for the December 30, 2024 hearing was published

³ The Board cannot speak as to what the Director's/DCD's process is, if any, to address substitution of parties to ongoing workers' compensation claims when a party of interest dies. However, for informational purposes, when a party dies whilst proceedings are ongoing before the Board, the Board issues an order holding the appeal in abeyance. The order informs all parties that it has come to the Board's attention that a party has died and that the matter will be held in abeyance for a period of at least 120 days, pending the Board's receipt of a written appearance by a court-appointed personal representative or special administrator for the deceased's estate. The Board also places the onus upon the opposing parties to check the Hawaii State Judiciary court records (e.g., eCourt* Kokua) after 120 days has expired for the existence, if any, of a court-appointed personal representative or special administrator of the deceased's estate and to report their findings to the Board. The parties are also ordered to provide all relevant documents and information to the court-appointed personal representative or special administrator, to apprise them of the pending appeal and pertinent deadlines. The Board's order of abeyance also informs the parties of any consequences, such as dismissal of the appeal, if no person substitutes in for the deceased party in accordance with the Board's order of abeyance. The order is published on the Board's website for at least 180 days from the date of its filing to provide notice to relevant persons not yet known to the Board. In the event that the Board receives a written appearance of a court-appointed personal representative or special administrator for the deceased, the matter is taken out of abeyance and that person is substituted in as a party to the proceedings. Once a person is substituted into the proceedings as a party, the Board amends its caption to reflect that person's role in the proceedings. If, after the appeal has been held in abeyance, no one makes an appearance in the proceedings as the court-appointed personal representative or special administrator for the deceased, and in the event that the appeal must proceed, the Board publishes its notices relating to the appeal on its website and reminds all remaining parties that they, too, must publish any pleadings filed with the Board to effectuate proper notice.

for a reasonable period of time prior to the December 30, 2024 hearing. In the alternative, because this matter was on temporary remand to the Director from the Board, the Director could have returned the case to the Board for further handling given the death of a party. The Director, however, did not do so.

Because the Director proceeded with the December 30, 2024 hearing and issued the May 16, 2025 Supplemental Decision without first ascertaining the proper identity of Decedent's judicially appointed personal representative or special administrator, if any, or giving notice and opportunity for a proper legal representative to appear in the proceedings and substitute in as Decedent, procedural due process was violated in the Director's issuance of the May 16, 2025 Supplemental Decision.

2. Identification and Notice to Potential Employers.

The temporary remand of this matter to the Director was further complicated because of the need to ascertain the identities of and contact information regarding several potential employers and/or statutory employers. There is no doubt that this particular case presents a factually complex situation which, as discussed below, has not yet been completely flushed out.

By way of background, it appears that Decedent's March 31, 2008 injury allegedly arises out of work performed at the home of ADAM C. WONG AND CHELSIE M. WONG, wherein ADAM C. WONG AND CHELSIE M. WONG allegedly acted as the general contractor. It also appears that when Decedent was allegedly injured, there were allegedly other persons and entities who may have assumed the role of employer of Decedent and/or may be considered

statutory employers for purposes of Decedent's workers' compensation claim. The record indicates that in addition to Employer, Delinquent KAI HUA SUN, whom the Director determined to be Decedent's primary "employer" for purposes of this workers' compensation claim and who was identified as a "Delinquent Employer" for his failure to carry workers' compensation insurance, as well as ADAM C. WONG AND CHELSIE M. WONG whom the Director determined to be the general contractors for the project, Decedent's worksite may have been allegedly managed or directed by other persons or entities, including but not limited to, WILLIAM A. MCCLARY; INTERNATIONAL STEEL CONCEPTS CORP.; DAVID WALL; BLUE STONE; JO BAUTISTA; and QUALITY DESIGN BUILDERS.⁴

Understanding the relationship or role, if any, of these persons/entities to Decedent's alleged March 31, 2008 injury and ascertaining the identities and roles of all potential employers or statutory employers relative to Decedent's alleged workers' compensation injury are of paramount importance. In relevant part, HRS § 386-1 provides:

"Employee" means any individual in the employment of another person.

Where an employee is loaned or hired out to another person for the purpose of furthering the other person's trade, business, occupation, or profession, the

⁴ The Board recognizes that KAS CONSTRUCTION & DESIGN, INC. was previously identified in this matter as being a potential employer or statutory employer. However, KAS CONSTRUCTION & DESIGN, INC. was dismissed as a party to Case No. 2-09-02854 (D/A: March 31, 2008) and may no longer be considered to be statutory employer for purposes of the workers' compensation claims, herein.

employee shall, beginning with the time when the control of the employee is transferred to the other person and continuing until the control is returned to the original employer, be deemed to be the employee of the other person regardless of whether the employee is paid directly by the other person or by the original employer. The employee shall be deemed to remain in the sole employment of the original employer if the other person fails to secure compensation to the employee as provided in section 386-121.

Whenever an independent contractor undertakes to perform work for another person pursuant to contract, express or implied, oral or written, the independent contractor shall be deemed the employer of all employees performing work in the execution of the contract, including employees of the independent contractor's subcontractors and their subcontractors. However, the liabilities of the direct employer of an employee who suffers a work injury shall be primary and that of the others secondary in their order. An employer secondarily liable who satisfies a liability under this chapter shall be entitled to indemnity against loss from the employer primarily liable.

(Underline added.)

In interpreting this section of HRS Chapter 386, the Hawaii Supreme Court acknowledged that HRS § 386-1 “sets out a scheme whereby the direct employer of an employee who suffers a work injury is primarily liable to the employee for workers’ compensation benefits.” *Crompton v. Tern Corp.* 83 Haw. 1, 7, 924 P.2d 169, 175 (1996). However, “[i]n the event that the direct employer is unable or unwilling to pay, secondary liability for the employee’s

workers' compensation benefits passes to the next contractor or subcontractor in order, with ultimate liability falling on the general contractor.” *Id.* (underline added, italics in original). The *Crompton* Court made clear that “secondary liability is assigned to the next subcontractor or contractor up the chain, and only if that subcontractor is unable to pay benefits is the secondary liability assigned to the next subcontractor or contractor up the chain.” *Id.* (underline added). Because Hawaii’s workers’ compensation scheme envisions that secondary liability may be assigned to the next subcontractor or contractor up the chain from the delinquent employer, the next subcontractor(s) or contractor(s) become “statutory employers” for purposes of workers’ compensation benefits owed to an injured employee.

It thus stands to reason that before the Director is able to make any determination which assigns secondary liability to a statutory employer, due process considerations require that all possible parties who may be considered to be a statutory employer be identified and provided notice of any hearing so that the Director can determine which parties are statutory employers and assign their order up the chain from the delinquent employer who is primarily liable.

It was precisely for this reason that the Board, on February 17, 2016, issued a Decision and Order, which vacated the Director’s November 19, 2013 Supplemental Decision and which temporarily remanded this case to the Director. The Board alerted the Director that he did not provide notice to a number of parties who may be considered to be statutory employers for

purposes of Decedent's workers' compensation claim. However, when the Director noticed the December 30, 2024 hearing and issued his corresponding Supplemental Decision on May 16, 2025, the Director did not consider or properly notice all possible statutory employers. Yet, the Director, in the May 16, 2025 Supplemental Decision, assigned secondary liability to ADAM C. WONG AND CHELSIE M. WONG as the general contractor, pursuant to HRS § 386-1. By failing to ascertain and properly notice other parties who may have been statutory employers up the chain from Employer, Delinquent KAI HUA SUN, due process considerations were not met.

a. DAVID WALL

The record reflects that Decedent, by way of an additional WC-5 filed on March 17, 2010, identified DAVID WALL as a potential employer or statutory employer. The Board, in its February 17, 2016 Decision and Order specifically identified DAVID WALL as a party to Decedent's workers' compensation claim. While the Director included DAVID WALL to the December 23, 2024 Amended Notice of Hearing, it sent the notice to "C/O SURVIVORS OF XIU MING WU" which does not provide actual or meaningful notice of the hearing to DAVID WALL.

While the Board is sympathetic to the difficulties the Director may have faced in securing a current address for DAVID WALL⁵, service of a notice of hearing intended for DAVID WALL upon Survivors does not suffice for due

⁵ According to the Director's May 16, 2025 Supplemental Decision, "[t]he record is absent any contact information for David Wall."

process considerations. DAVID WALL and Survivors are adverse parties. More importantly, there is no evidence in the file that Survivors may legally accept service for DAVID WALL. Simply because Decedent previously identified DAVID WALL as an employer or statutory employer does not confer authority or legal responsibility upon Decedent and/or Survivors to accept service on DAVID WALL's behalf.

Rather, the Director should make a reasonable effort to ascertain the current contact information for DAVID WALL and effectuate service at DAVID WALL's last known address. In the event that service at DAVID WALL's last known address fails or no address can be found, service should be made by publication for a reasonable period of time prior to any hearing in this case.

b. INTERNATIONAL STEEL CONCEPTS CORP.

Similarly, although INTERNATIONAL STEEL CONCEPTS CORP. was previously identified by the Board as a potential employer or statutory employer, the Director did not provide notice to INTERNATIONAL STEEL CONCEPTS CORP. of the December 30, 2024 hearing. Even though no notice was provided to INTERNATIONAL STEEL CONCEPTS CORP. of this hearing, the Director identified INTERNATIONAL STEEL CONCEPTS CORP. as a "party" to the May 16, 2025 Supplemental Decision.

What is also curious is that after the December 20, 2024 hearing, the Director issued another Amended Notice of Hearing on February 27, 2025 for a hearing scheduled for April 16, 2025 and on this notice, included INTERNATIONAL STEEL CONCEPTS CORP. and their address of "2051 YOUNG

ST STE 47 / HONOLULU HI 96826.” According to the Director’s May 16, 2025 Supplemental Decision, this notice was returned to the DCD on March 24, 2025 as undeliverable. The Director then reasoned that because the notice was returned⁶, no representative of INTERNATIONAL STEEL CONCEPTS CORP. would attend the April 16, 2025 hearing, and therefore, the April 16, 2025 hearing was cancelled. However, the Director still maintained that INTERNATIONAL STEEL CONCEPTS CORP. was indeed a party to the May 16, 2025 Supplemental Decision arising out of the December 30, 2025 hearing. This does not make sense. A party to a proceeding cannot be noticed “after the fact” or after the proceeding has actually taken place, for due process considerations to be satisfied.

Rather, the Director should make a reasonable effort to ascertain the current contact information for INTERNATIONAL STEEL CONCEPTS CORP. and effectuate service at INTERNATIONAL STEEL CONCEPTS CORP.’s last known address. In the event that service at INTERNATIONAL STEEL CONCEPTS CORP.’s last known address fails or no address can be found, service should be made by publication for a reasonable period of time prior to any hearing in this case.

c. BLUE STONE

Although the Board’s February 17, 2016 Decision and Order

⁶ The Board observes that, unlike other documents that were returned to the Director whose corresponding returned envelopes are included in the record, the record does not reflect the returned envelope that transmitted February 27, 2025 Amended Notice of Hearing addressed to INTERNATIONAL STEEL CONCEPTS CORP.

specifically identified BLUE STONE as a potential supplier, distributor, representative, and/or consultant which would make BLUE STONE a potential employer or statutory employer with regard to Decedent's March 31, 2008 alleged injury, BLUE STONE was not listed as a party to the DCD's December 30, 2024 hearing or the associated May 16, 2025 Supplemental Decision.

Thus, the May 16, 2025 Supplemental Decision regarding which parties are statutory employers did not adhere to due process considerations.

d. JO BAUTISTA and QUALITY DESIGN BUILDERS

Similarly, the record indicates that JO BAUTISTA and QUALITY DESIGN BUILDERS may be potential employers or statutory employers with respect to Decedent's March 31, 2008 alleged injury. Neither were listed as parties to the DCD's December 30, 2024 hearing, and it does not appear that they were considered by the Director prior to the issuance of the May 16, 2025 Supplemental Decision.

Although not identified by Decedent, WILLIAM A. MCCLARY, in a document dated December 3, 2007, identified JO BAUTISTA as a "consultant" to the project on which Decedent was working on March 31, 2008. QUALITY DESIGN BUILDERS was identified by Mr. Oshima, the former attorney for ADAM C. WONG AND CHELSIE M. WONG, on or about June 5, 2009.

4. **The Director's determination regarding WILLIAM A. MCCLARY.**

In the May 16, 2025 Supplemental Decision, the Director, in response to the Board's order requesting that the Director determine whether WILLIAM A. MCCLARY should be dismissed from Case No. 2-09-02854 because

of his bankruptcy discharge, determined that WILLIAM A. MCCLARY “is dismissed from the 3/31/2008 claim with prejudice.” In retrospect and upon further consideration, it was error for the Board to have requested that the Director make this determination because this determination is outside the scope of both the Director and the Board’s jurisdiction and is not consistent with a plain reading of HRS § 386-1 and *Crompton*.

By way of explanation, it appears that WILLIAM A. MCCLARY filed for Chapter 7 Bankruptcy. The record reflects that on June 21, 2011, the United States Bankruptcy Court, District of Hawaii entered a DISCHARGE OF DEBTOR(S) in favor of WILLIAM A. MCCLARY. **It is not clear from the record whether Decedent’s workers’ compensation claim (WC-5) was listed as a debtor or liability that was considered a part of WILLIAM A. MCCLARY’s Chapter 7 Bankruptcy discharge.** On February 17, 2016, the Board ordered that the Director consider:

Whether WILLIAM McCLARY’s bankruptcy discharge requires his dismissal with prejudice from the proceedings relating to claims by Claimant for the work injury to his back on March 31, 2008.

It was error of the Board to have ordered the Director to make this determination because it is outside of the Director’s purview or jurisdiction, under HRS Chapter 386. Because an HRS § 386-1 analysis in this case requires a listing of statutory employers up the chain from Employer, Delinquent KAI HUA SUN, in order, an assessment of where all statutory employers lie on the chain, after Employer, Delinquent KAI HUA SUN, is

necessary. Thus, while it is within the Director's (and the Board's) authority to determine that WILLIAM A. MCCLARY is not a statutory employer for purposes of HRS § 386-1, it is not within the Director's (or the Board's) jurisdiction to determine that WILLIAM A. MCCLARY is not party to Decedent's workers' compensation claim because of a Chapter 7 Bankruptcy Discharge. Rather, because HRS § 386-1 and *Crompton* necessitate that assignments of secondary liability be made, in order, after the primary employer⁷, WILLIAM A. MCCLARY remains a party to Decedent's workers' compensation proceedings until it is finally determined that he is not a statutory employer or all parties dismiss WILLIAM A. MCCLARY with prejudice, with approval by the Director and/or Board. In the event that WILLIAM A. MCCLARY is found to be a statutory employer and in the event that the primary employer (i.e., Employer, Delinquent KAI HUA SUN) as well as all statutory employers, if any, between Employer, Delinquent KAI HUA SUN and WILLIAM A. MCCLARY are unable to pay workers' compensation benefits, then the question arises as to whether WILLIAM A. MCCLARY may be held liable for any and all workers' compensation benefits due. Because of the United States Bankruptcy Court's June 21, 2011 Discharge of Debtor(s), the determination regarding the enforcement or collectability of this liability is not determined by the Director or the Board but

⁷ While the issue of a bankruptcy discharge as to a statutory employer was not directly addressed in *Crompton*, the Hawaii Supreme Court did comment that "the plain meaning of the language of HRS § 386-1 assigns secondary liability for an injured worker's workers' compensation benefits to the next subcontractor above the primarily liable employer in default without regard to whether that subcontractor carries insurance to cover workers' compensation benefits. . ." *Crompton*, 83 Haw. at 6, 924 P.2d at 174.

by the United States Bankruptcy Court, District of Hawaii. This is especially so given that there is no evidence in the record that Decedent's workers' compensation claim (WC-5) was listed as a debtor or liability that was considered a part of WILLIAM A. MCCLARY's Chapter 7 Bankruptcy discharge.

B. Claim No. 2: Survivors' WC-5A

The Director, by way of the May 16, 2025 Supplemental Decision, denied Survivors' WC-5A claim for dependents' benefits as being untimely filed. The Board does not make any determinations as to the correctness of the Director's conclusions in this regard. Rather, the Board vacates the Director's May 16, 2025 Supplemental Decision in this regard because, as discussed above, the hearing, upon which the May 16, 2025 Supplemental Decision was based, did not provide proper notice to and include all relevant parties. On temporary remand, the Director may, of course, arrive at the same determination regarding the untimeliness of Survivors' WC-5A claim, after timely and proper notice is served upon all parties.

C. Closing Remarks

The Board recognizes that Case No. 2-09-02854 has, for many parties, been ongoing since March 31, 2008 when Decedent was allegedly injured and unfortunately, for 17 years, has yet to come to a resolution. The Board is sympathetic to the frustration the parties, as well as the Director, may feel upon the Board's vacating of a second decision of the Director and its third temporary remand to the Director.

However, the Board cannot overlook due process considerations

which is a cornerstone of our judicial system. In this case, the failure to serve notices of hearing(s) upon all parties who could be considered to be statutory employers for purposes of Case No. 2-09-02854 prejudices those parties who were not noticed of their potential liability and yet may be found liable as statutory employers.

This matter also poses an additional, unique due process concern. Because this matter involves a delinquent primary employer, it is incumbent upon the Director (and perhaps, the Board) to identify all employers who are secondarily liable and their respective order, up the chain. Thus, failing to consider the secondary liability of an employer who is either not served or not even considered by the Director also prejudices other existing parties who are determined to be statutory employers because those missing parties may have, in fact, been secondarily liable ahead of the existing or known party or parties.

Finally, this case was further complicated by the passing of Claimant XIU MING WU. In order to ensure that Claimant XIU MING WU's interests are protected, even in death, it is incumbent upon the Board to ensure that due process is conferred upon Decedent.

In light of these serious considerations in this factually complex case, the Board VACATES the Director's May 16, 2025 Supplemental Decision and temporarily remands Case No. 2-09-02854 to the Director consistent with the following order.

CONCLUSIONS OF LAW

1. The workers' compensation proceedings arising out of

Decedent XIU MING WU's claim for workers' compensation benefits, filed on March 20, 2009 for an alleged industrial injury occurring on March 31, 2008 should have been suspended on February 22, 2022, the date of Decedent's death.

2. Service of DAVID WALL in "care of" SURVIVORS is inappropriate and does not satisfy due process considerations vis-à-vis DAVID WALL.

3. Prior to the Director's issuance of the May 16, 2025 Supplemental Decision arising out of a Disability Compensation Division hearing of December 30, 2024, the following parties were not appropriately or properly notified of the December 30, 2024 hearing thus denying them of due process considerations:

- a. The court-appointed personal representative or special administrator, if any, of Decedent XIU MING WU's Estate;
- b. INTERNATIONAL STEEL CONCEPTS CORP.;
- c. DAVID WALL;
- d. BLUE STONE;
- e. QUALITY DESIGN BUILDERS; and
- f. JO BAUTISTA.

4. It was error for the Board to request that the Director determine whether WILLIAM A. MCCLARY's bankruptcy discharge requires his dismissal from the proceedings relating to claims by Decedent for the work injury to his back on March 31, 2008 because said issue is outside the

jurisdiction of the Director.

5. It was error for the Director to order, in the May 16, 2025 Supplemental Decision, that WILLIAM A. MCCLARY is dismissed with prejudice from the March 31, 2008 claim based solely upon a Discharge of Debtor(s) dated June 21, 2011.

6. The Director's May 16, 2025 Supplemental Decision is vacated.

ORDER

IT IS HEREBY ORDERED that:

1. The Director's Decision Supplemental to Award Dated 12/4/2009 filed on May 16, 2025 is VACATED.

2. The two (2) proceedings in Case No. 2-09-02854, arising out of (1) Decedent XIU MING WU's workers' compensation claim filed on March 20, 2009 and (2) Survivors' claim for dependents' benefits filed on April 24, 2024, are temporarily remanded to the Director of Labor and Industrial Relations.

3. Upon temporary remand, the Director shall:

- a. Order that Case No. 2-09-02854 be held in abeyance for a reasonable period of time, for the purpose of identifying the court-appointed personal representative or special administrator, if any, of the Estate of Decedent XIU MING WU and to allow the court-appointed personal representative or special administrator, if any, of the Estate of Decedent XIU MING WU a reasonable period of time to substitute in as a party on behalf of Decedent XIU MING WU;
- b. Upon either: (1) the substitution of Decedent XIU MING WU or (2) the Director's determination that no

personal representative or special administrator has been judicially appointed for the Estate of Decedent XIU MING WU and with continued notice by publication of any and all hearings before and orders by the Director in Case No. 2-09-02854, the Director shall provide timely and appropriate notice to the following parties of any and all hearings before the Director in Case No. 2-09-02854, at their last known addresses:

- (1) The court-appointed personal representative or special administrator for the Estate of Decedent XIU MING WU, if any, or Decedent XIU MING WU via publication;
 - (2) SURVIVORS OF XIU MING WU (currently, **Han Bin Lin** and **Nathan Wu**);
 - (3) Employer, Delinquent KAI HUA SUN;
 - (4) WILLIAM A. MCCLARY;
 - (5) ADAM C. WONG AND CHELSIE M. WONG;
 - (6) INTERNATIONAL STEEL CONCEPTS CORP.;
 - (7) DAVID WALL;
 - (8) BLUE STONE and/or its supplier, distributor, representative, and/or consultant;
 - (9) JO BAUTISTA;
 - (10) QUALITY DESIGN BUILDERS;
 - (11) Any and all other employers, statutory employers, and/or employers who may secondarily liable in Case No. 2-09-028554, as identified by the Director;
 - (12) SPECIAL COMPENSATION FUND; and
 - (13) The legal representative(s) or attorney(s) for the above-listed parties.
- c. The parties may stipulate to dismiss with prejudice any other party from Case No. 2-09-028554 and Case No. AB 2009-612(T2), provided that said stipulation is

approved by the Board.

- d. With respect to the Director's service of documents upon the above-referenced parties, in the event that a document addressed to one or more of the above-referenced parties is returned as undeliverable, service of the same shall be made by publication.
- e. On temporary remand, the Director shall address the following issues with respect to Decedent XIU MING WU's claim for workers' compensation benefits:
 - (1) Whether Employer, Delinquent KAI HUA SUN is unable or unwilling to pay workers' compensation benefits pursuant to HRS Chapter 386 in Case No. 2-19-02854.
 - (2) Whether WILLIAM A. MCCLARY; ADAM C. WONG AND CHELSIE M. WONG; INTERNATIONAL STEEL CONCEPTS CORP.; DAVID WALL; BLUE STONE and/or its supplier, distributor, representative, and/or consultant; JO BAUTISTA; and/or QUALITY DESIGN BUILDERS is/are employer(s) who is/are secondarily liable to Employer, Delinquent KAI HUA SUN, pursuant to HRS § 386-1.
 - (3) If so and if there is more than one employer who is secondarily liable to Employer, Delinquent KAI HUA SUN, for any and all workers' compensation benefits arising out of Case No. 2-19-02854, what is the assignment order up the chain from Employer, Delinquent KAI HUA SUN, pursuant to HRS § 386-1.
 - (4) If Employer, Delinquent KAI HUA SUN is unable or unwilling to pay workers' compensation benefits pursuant to HRS Chapter 386 in Case No. 2-19-02854, whether the employer(s) that is or are secondarily liable, if any, is or are unable or unwilling to pay workers' compensation benefits pursuant to HRS Chapter 386 in Case No. 2-19-02854.
 - (5) Whether the SPECIAL COMPENSATION FUND is liable for Decedent XIU MING WU's workers' compensation benefits, pursuant to HRS § 386-

56.

- f. On temporary remand, the Director shall address the following issues with respect to SURVIVORS OF XIU MING WU's claim for dependents' benefits:
- (1) Is the claim for dependents' benefits, filed by SURVIVORS OF XIU MING WU in Case No. 2-19-02854 barred by the statute of limitations (HRS § 386-82).
 - (2) If not, are SURVIVORS OF XIU MING WU entitled to dependents' benefits arising out of Case No. 2-19-02854.
 - (3) If so, the amount and nature of dependents' benefits.
 - (4) If so, whether Employer, Delinquent KAI HUA SUN is unable or unwilling to pay workers' compensation dependents' benefits awarded, if any, pursuant to HRS Chapter 386 in Case No. 2-19-02854.
 - (5) If dependents' benefits are awarded and if Employer, Delinquent KAI HUA SUN is unable or unwilling to pay workers' compensation dependents' benefits pursuant to HRS Chapter 386 in Case No. 2-19-02854, whether the employer(s) that is/are secondarily liable, if any, is/are unable or unwilling to pay workers' compensation dependents' benefits pursuant to HRS Chapter 386 in Case No. 2-19-02854.
 - (6) If dependents' benefits are awarded, whether the SPECIAL COMPENSATION FUND is liable for dependents' benefits in Case No. 2-19-02854, pursuant to HRS § 386-56.

4. Upon completion of the Director's decision, the Director is hereby requested to transmit forthwith the case file to this Board for hearing and determination of all issues on appeal from the Director's Decision, entered on December 4, 2009.

5. Any subsequent decision rendered by the Director must be timely appealed by the parties in order for this Board to obtain jurisdiction to hear issues arising therefrom.

Dated: Honolulu, Hawai'i,

Sep 25 2025



DAMIEN A. ELEFANTE, Chair



MARIE C.L. LADERTA, Member



HARRY YEE, Member

Xiu Ming Wu, Deceased v. Kai Hua Sun, et al. and Survivors of Xiu Ming Wu v. Kai Hua Sun, et al.; Case No. AB 2009-612(T); Order Vacating the Director's May 16, 2025 Decision and Order for Temporary Remand

A digital copy of this document was posted on the Board's website and will remain on the Board's website for at least 180 days from the date of filing noted above.

Xiu Ming Wu, Deceased
For Claimant XIU MING WU,
Deceased

Han Bin Lin
For SURVIVORS OF XIU MING
WU

Nathan Wu
For SURVIVORS OF XIU MING
WU

Kai Hua Sun
For Employer, Delinquent KAI
HUA SUN

Dexter T. Higa, Esq.
For WILLIAM A. MCCLARY

Brian G.S. Choy, Esq.
For ADAM C. WONG AND
CHELSIE M. WONG

International Steel Concepts Corp.
For INTERNATIONAL STEEL
CONCEPTS CORP.

William N.K. Crowell, Esq.
For SPECIAL COMPENSATION
FUND

A certified copy of the foregoing was served upon the above-captioned parties or their legal representatives on the date of filing noted above.

LABOR APPEALS BOARD - 830 PUNCHBOWL ST, RM 404, HONOLULU, HI 96813 - (808)586-8600

If you need a language interpreter or if you need an auxiliary aid/service or other accommodation due to a disability, please contact the Board at (808) 586-8600 and/or dlir.appealsboard@hawaii.gov as soon as possible, preferably at least ten (10) business days prior to your hearing or conference date. Requests made as early as possible have a greater likelihood of being fulfilled. If a request is received after the reply date, the Board will try to obtain the interpreter, auxiliary aid/service, or accommodation, but the Board cannot guarantee that the request will be fulfilled.

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TDD/TTY Dial 711 then ask for (808) 586-8600

Xiu Ming Wu, Deceased v. Kai Hua Sun, et al. and Survivors of Xiu Ming Wu v. Kai Hua Sun, et al.; Case No. AB 2009-612(T); Order Vacating the Director's May 16, 2025 Decision and Order for Temporary Remand

This certifies that the foregoing is a
full, true, and correct copy of the
original on file in this office.

