

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

OLISAEMEKA EZE, *Applicant*

vs.

**FEDEX GROUND PACKAGE SYSTEM, INC., permissibly self-insured, administered by
SEDGWICK CMS, *Defendants***

**Adjudication Number: ADJ15619594
Santa Rosa District Office**

**OPINION AND ORDER
DISMISSING PETITION FOR
RECONSIDERATION**

Applicant seeks reconsideration of our March 10, 2025 Opinion and Order Granting Petition for Reconsideration and Decision after Reconsideration (O&O) wherein we amended the workers' compensation judge's (WCJ's) November 26, 2024 Findings, Award, and Orders (FA&O) to reflect that defendant shall provide the Court with applicant's non-privileged claims file for an in-camera review, but otherwise affirmed the WCJ's FA&O.

Applicant appears to disagree with our decision to provide the WCJ with the non-privileged claims file for an in-camera review and contends that defendant failed to "overcome the burden of proof[.]" citing to "California Evidence Code 623." (Petition for Reconsideration (Petition), pp. 1-2.)

We have not received an Answer from defendant.

We have considered the Petition and have reviewed the record in this matter. Based upon our O&O, which we adopt and incorporate herein, including the dissent, and for the reasons discussed below, we will dismiss applicant's Petition as untimely.

FACTS

Applicant, while employed by defendant as an operations coordinator, sustained a cumulative work injury ending on August 25, 2021, to the psyche, including sleep disorder, anxiety, and mental exhaustion.

The parties proceeded with discovery, but ultimately reached an impasse on several issues, including provision of the complete unredacted claims file by defendant to the WCJ and reimbursement of medical mileage. As such, a Declaration of Readiness to Proceed was filed, and on January 16, 2024, the parties attended a Mandatory Settlement Conference wherein the WCJ ordered, in relevant part, that defendant's attorney "consult with his client regarding the outstanding mileage reimbursement requests previously submitted by [applicant] before the next Mandatory Settlement Conference." (Supplement to Minutes of Hearing, January 16, 2024.)

A subsequent hearing was set for March 12, 2024, but continued to May 29, 2024, at defendant's request. (Minutes of Hearing, March 11, 2024.)

On July 17, 2024, the parties proceeded to trial on various issues, including the issues of provision of the complete unredacted claims file by defendant to the WCJ and reimbursement of medical mileage to applicant.

On November 26, 2024, the WCJ issued a FA&O which held, in relevant part, that applicant was entitled to reimbursement of medical mileage in the amount of \$119.73, inclusive of a 25% penalty pursuant to section 5814 for unreasonable delay; that defendant provide to the WCJ, applicant's full unredacted claims file for an in-camera review within 30 days of service of the FA&O, and, as to those documents alleged to be privileged, that a privilege log be prepared by defendant, then reviewed by the WCJ, who would issue an order indicating which items were protected by attorney-client privilege and/or work-product doctrine; and that defendant pay section 5813 sanctions to the General Fund in the amount of \$250 for violation of the January 16, 2024 court order.

On December 23, 2024, defendant filed a Petition for Reconsideration of the November 26, 2024 FA&O.

On March 10, 2025, we issued an Opinion and Order Granting Petition for Reconsideration and Decision after Reconsideration wherein we amended the WCJ's November 26, 2024 FA&O to reflect that only the non-privileged claims file be provided to the WCJ for an in-camera review. We otherwise affirmed the FA&O.

DISCUSSION

I.

Preliminarily, former Labor Code¹ section 5909 provided that a petition for reconsideration was deemed denied unless the Appeals Board acted on the petition within 60 days from the date of filing. (Lab. Code, § 5909.) Effective July 2, 2024, section 5909 was amended to state in relevant part that:

- (a) A petition for reconsideration is deemed to have been denied by the appeals board unless it is acted upon within 60 days from the date a trial judge transmits a case to the appeals board.
- (b)
 - (1) When a trial judge transmits a case to the appeals board, the trial judge shall provide notice to the parties of the case and the appeals board.
 - (2) For purposes of paragraph (1), service of the accompanying report, pursuant to subdivision (b) of Section 5900, shall constitute providing notice.

Under section 5909(a), the Appeals Board must act on a petition for reconsideration within 60 days of transmission of the case to the Appeals Board. Transmission is reflected under the Events tab in the Electronic Adjudication Management System (EAMS). Specifically, in Case Events, under Event Description is the phrase “Sent to Recon” and under Additional Information is the phrase “The case is sent to the Recon board.”

Here, according to Events, the case was transmitted to the Appeals Board on July 30, 2025, and 60 days from the date of transmission is September 28, 2025, which is a Sunday. The next business day that is 60 days from the date of transmission is Monday, September 29, 2025. (See Cal. Code Regs., tit. 8, § 10600(b).)² This decision was issued by or on September 29, 2025, so that we have timely acted on the petition as required by section 5909(a).

Section 5909(b)(1) requires that the parties and the Appeals Board be provided with notice of transmission of the case. Transmission of the case to the Appeals Board in EAMS provides

¹ All further statutory references will be to the Labor Code unless otherwise indicated.

² WCAB Rule 10600(b) (Cal. Code Regs., tit. 8, § 10600(b)) states that:

Unless otherwise provided by law, if the last day for exercising or performing any right or duty to act or respond falls on a weekend, or on a holiday for which the offices of the Workers’ Compensation Appeals Board are closed, the act or response may be performed or exercised upon the next business day.

notice to the Appeals Board. Thus, the requirement in subdivision (1) ensures that the parties are notified of the accurate date for the commencement of the 60-day period for the Appeals Board to act on a petition. Section 5909(b)(2) provides that service of the Report and Recommendation shall constitute notice of transmission.

Here, according to our review of the record, we did not receive a new Report. However, a notice of transmission was served by the district office on July 30, 2025, which is the same day as the transmission of the case to the Appeals Board. Thus, we conclude that the parties were provided with the notice of transmission required by Labor Code section 5909(b)(1), and consequently they had actual notice as to the commencement of the 60-day period on July 30, 2025.

II.

Turning now to the Petition, we note that there are 20 days allowed within which to file a petition for reconsideration from a “final” decision. (Lab. Code, §§ 5900(a), 5903.) This time is extended by 5 calendar days if service is made to an address within California and 10 calendar days if service is made to an address outside of California but within the United States. (Cal. Code Regs., tit. 8, § 10605(a)(1).) This time limit is jurisdictional and, therefore, the Appeals Board has no authority to consider or act upon an untimely petition for reconsideration. (*Maranian v. Workers’ Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1076 [65 Cal.Comp.Cases 650]; *Rymer v. Hagler* (1989) 211 Cal.App.3d 1171, 1182; *Scott v. Workers’ Comp. Appeals Bd.* (1981) 122 Cal.App.3d 979, 984 [46 Cal.Comp.Cases 1008]; *U.S. Pipe & Foundry Co. v. Industrial Acc. Com. (Hinojoza)* (1962) 201 Cal.App.2d 545, 549 [27 Cal.Comp.Cases 73].) Here, the O&O was served by mail to an address within California on March 10, 2025. The twenty-fifth day fell on Friday, April 4, 2025. Applicant filed the Petition on June 6, 2025. As a result, applicant’s Petition is untimely and shall be dismissed.

Assuming *arguendo* that applicant’s Petition was not untimely, we would have denied it for the reasons set forth in our O&O of March 10, 2025, which we adopt and incorporate herein, including the dissent.

Lastly, we find it necessary to admonish applicant for using offensive, inappropriate, and disrespectful language in his June 6, 2025 Petition. (See Lab. Code, § 5813; see also Cal. Code Regs., tit. 8, § 10421(b)(9)(B) [sanctionable conduct includes “using any language in any pleading or other document [...] [w]here the language or gesture impugns the integrity of the Workers’

Compensation Appeals Board or its commissioners, judges, or staff’].) Future compliance with the Appeals Board's rules is expected.

Accordingly, we dismiss applicant’s Petition.

For the foregoing reasons,

IT IS ORDERED that applicant’s Petition for Reconsideration of the March 10, 2025 Opinion and Order Granting Petition for Reconsideration and Decision after Reconsideration is **DISMISSED**.

WORKERS’ COMPENSATION APPEALS BOARD

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER

I CONCUR,

/s/ CRAIG SNELLINGS, COMMISSIONER

JOSE H. RAZO, COMMISSIONER
PARTICIPATING NOT SIGNING



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

SEPTEMBER 9, 2025

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

OLISAEMEKA EZE
BRUNDO LAW

RL/cs

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