

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

ABEL GARCIA SANCHEZ, *Applicant*

vs.

**ISLANDS RESTAURANTS; THE NORTH RIVER INSURANCE COMPANY,
administered by CRUM & FORSTER, *Defendants***

**Adjudication Number: ADJ19030577
Van Nuys District Office**

**OPINION AND ORDER
DISMISSING PETITION
FOR RECONSIDERATION**

We have considered the allegations of the Petition for Reconsideration, the Answer and the contents of the Report of the workers' compensation administrative law judge (WCJ) with respect thereto. Based on our review of the record, and for the reasons stated below, we will dismiss the Petition for Reconsideration.

I.

Preliminarily, we note that former Labor Code section¹ 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.

¹ All statutory references are to the Labor Code unless otherwise stated.

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 in Events in the Electronic Adjudication Management System (EAMS). Specifically, in Case Events, under Event Description is the phrase “Sent to Recon” and under Additional Information is the phrase “The case is sent to the Recon board.”

Here, according to Events, the case was transmitted to the Appeals Board on May 27, 2026, and 60 days from the date of transmission is Sunday, July 26, 2026. The next business day that is 60 days from the date of transmission is Monday, July 27, 2026. (See Cal. Code Regs., tit. 8, § 10600(b).)² This decision is issued by or on Monday, July 27, 2026, 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 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 shall be notice of transmission.

Here, according to the proof of service for the Report by the WCJ, the Report was served on May 27, 2026, and the case was transmitted to the Appeals Board on May 27, 2026. Service of the Report and transmission of the case to the Appeals Board occurred on the same day. Thus, we conclude that the parties were provided with the notice of transmission required by section 5909(b)(1) because service of the Report in compliance with section 5909(b)(2) provided them with actual notice as to the commencement of the 60-day period on May 27, 2026.

II.

WCAB Rule 10842 states as follows:

All requests for an increase in attorney’s fee shall be accompanied by proof of service on the applicant of written notice of the attorney’s adverse interest and of the applicant’s right to seek independent counsel. Failure to notify the applicant may constitute grounds for dismissal of the request for increase in fee.

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.

(Cal. Code Regs., tit. 8, § 10842.)

Here, the Petition for Reconsideration seeks an increase in attorney fees but is not accompanied by proof of service on applicant of notice of applicant's attorney's adverse interest and of applicant's right to seek independent counsel. Therefore, the Petition is subject to dismissal. If the Petition was not being dismissed for failure to comply with Rule 10842, we would have denied applicant's attorney's request for additional fees for the reasons stated in the WCJ's Report.

For the foregoing reasons,

IT IS ORDERED that the Petition for Reconsideration is **DISMISSED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ CRAIG L. SNELLINGS, COMMISSIONER

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

July 27, 2026

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

**ABEL GARCIA SANCHEZ
KHAKSHOUR FREEMAN
McNAMARA & DRASS**

SL/pm

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