

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

FRANCISCO GONZALEZ MENDOZA, *Applicant*

vs.

**AUTO WAREHOUSING COMPANY;
LIBERTY INSURANCE CORPORATION; HELMSMAN MANAGEMENT, *Defendants***

**Adjudication Number: ADJ17796698
Pomona District Office**

**OPINION AND ORDER
DISMISSING PETITION FOR
RECONSIDERATION**

Applicant has filed a Petition for Reconsideration (Petition) and Amended Petition for Reconsideration (Amended Petition) of the Order Dismissing Inactive Case (Dismissal Order) issued by the workers' compensation administrative law judge (WCJ) on August 13, 2025, wherein the WCJ dismissed applicant's case without prejudice.

Applicant contends that defendant's Petition to Dismiss his case was not properly served, since it was mailed to an incorrect address for applicant's counsel. Applicant requests that we vacate the Dismissal Order.

The WCJ issued a Report and Recommendation (Report) recommending that the Amended Petition be dismissed as moot. Defendant did not file an answer.

We have considered the allegations in the Petition and Amended Petition, and the contents of the Report with respect thereto. Based on our review of the record, and for the reasons stated in the WCJ's Report and below, we will dismiss the Petition for Reconsideration and the Amended Petition for Reconsideration as moot.

BACKGROUND

Applicant filed an Application for Adjudication of Claim (Application) on June 8, 2023, claiming specific injury on May 17, 2023 to multiple body parts, while employed by defendant as a “road loader warehouse rep.” Applicant filed an Amended Application on November 14, 2023, adding additional body parts.

On June 4, 2025, defendant filed a Petition to Dismiss Inactive Case, pursuant to Rule 10550 of the California Code of Regulations, in which defendant contended that applicant’s case should be dismissed for failure to prosecute, on the grounds that more than a year had passed from the date of applicant’s Application and that applicant did not respond to defendant’s April 22, 2025 written notice that a Petition to Dismiss would be filed.

The WCJ issued a Notice of Intention to Dismiss Inactive Case (NIT) on June 19, 2025. Defendant served this notice on applicant and applicant’s counsel at 910 S. Broadway, Los Angeles, CA 90015 on July 25, 2025.

Having received no response to the NIT, the WCJ issued the Dismissal Order, without prejudice. Service was effected by the court on the parties, including applicant’s counsel at 612 S. Broadway, Los Angeles, CA 90014 on August 13, 2025.

On August 26, 2025, applicant filed their Petition, alleging that they did not receive proper service of defendant’s April 22, 2025 letter nor of the Petition to Dismiss, thereby challenging the Dismissal Order.

In response, on September 9, 2025 the WCJ issued an Order Rescinding the Dismissal Order. The Order Rescinding was served on applicant’s counsel on September 9, 2025 at their official address of record of 612 S Broadway, Los Angeles, CA 90014. Additionally, a Notice of Hearing (NOH) was served by the court setting the matter for a status conference.

On October 8, 2025, applicant filed the Amended Petition, again challenging the Dismissal Order, without acknowledging that the Dismissal Order had been previously rescinded on September 9, 2025. Applicant’s counsel also sent an email to the WCJ attaching the Amended Petition and listing their new address on the foot of the email as 540 S. Santa Fe Ave., Los Angeles, CA 90013.

At the October 8, 2025 Status Conference, representatives for both parties appeared, and the matter was continued by the WCJ for further discovery. The Minutes of Hearing (MOH) note

that the “WCAB already issued an order rescinding the Order Dismissing Inactive Case.” (MOH, 10/8/25.)

On October 15, 2025, the court received a return correspondence notifying applicant’s counsel of a hearing scheduled for November 26, 2025 with the notation “Return to Sender: Downtown LA Law Group 540 S. Santa Fe Ave Los Angeles, CA 90013-2233.”

On October 15, 2025, the official address of record for applicant’s counsel was changed to the S. Santa Fe address.

On November 14, 2025, the WCJ issued his Report. In the Report, the WCJ recommended dismissal of the Amended Petition as moot, noting that the Dismissal Order had already been rescinded by the date that the Amended Petition was filed, and thus “there was no outstanding decision to amend, modify, or rescind.”

I.

Former Labor Code section 5909¹ 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 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.”

¹ All section references are to the Labor Code, unless otherwise indicated.

Here, according to Events, the case was transmitted to the Appeals Board on November 14, 2025, and 60 days from the date of transmission is January 13, 2026. This decision is issued by or on January 13, 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 and Recommendation shall be notice of transmission.

Here, according to the proof of service for the Report and Recommendation by the workers' compensation administrative law judge, the Report was served on November 14, 2025, and the case was transmitted to the Appeals Board on November 14, 2025. Service of the Report and transmission of the case to the Appeals Board occurred on the same day. Thus, we conclude that the parties were provided with the notice of transmission required by section 5909(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 November 14, 2025.

II.

WCAB Rule 10961 provides that jurisdiction remains with the district office for 15 days after the timely filing of a petition for reconsideration and sets forth the following actions that a WCJ may take in response: (a) The WCJ may prepare a report and transfer jurisdiction to the Appeals Board to address the merits of the petition; (b) The WCJ may rescind the entire order, decision or award and initiate proceedings within 30 days; or (c) The WCJ may rescind the order, decision or award and issue an amended order, decision or award, and a new petition for reconsideration must be filed in response to the amended order, decision or award. (Cal. Code Regs., tit. 8, § 10961(a), (b) and (c); see Cal. Code Regs., tit. 8, § 10962.)

Consequently, if the order, decision or award is rescinded pursuant to WCAB Rule 10961, subdivision (b), within the 15-day period wherein the WCJ retains jurisdiction, the original petition is deemed moot because the order, decision or award that is the subject of the petition no longer exists.

Here, the WCJ rescinded the Dismissal Order within the 15-day period, rendering the Petition moot. Since jurisdiction has been transferred to the Appeals Board, the Petition for Reconsideration will be dismissed. (Cal. Code Regs., tit. 8, § 10961(b).) Applicant's Amended Petition will also be dismissed as moot, since it was filed after the Order Rescinding, and thus challenges an order that no longer exists.

As an aside, we note that no official change of address for applicant's counsel from 612 S. Broadway to 540 S. Santa Fe Ave. was filed by applicant's counsel in this matter. It is a party's duty to maintain an accurate mailing address with the Board, in part to effectuate proper service of documents. (Cal. Code Regs., tit. 8, § 10205.5(c).)

We further note that an email to a WCJ is an improper method with which to communicate, or notify the court, as to any pertinent case information absent specific prior approval by the WCJ.

Per AD Rule 10205.7, subdivision (c):

(c) No document shall be sent by electronic mail or by fax directly to the district office or the appeals board. If a document is sent by electronic mail or fax directly to the district office, it shall not be accepted for filing or deemed filed, shall not be acknowledged, and may be discarded unless otherwise ordered by the workers' compensation administrative law judge or the appeals board.

(Cal. Code Regs., tit., 8 § 10205.7(c).)

Nevertheless, as the matter is now moot due to the rescission by the WCJ of the Dismissal Order on September 9, 2025, we dismiss the Petition for Reconsideration and the Amended Petition for Reconsideration as moot.

For the foregoing reasons,

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

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER

/s/ PAUL F. KELLY, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

JANUARY 12, 2026

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

**FRANCISCO GONZALEZ MENDOZA
DOWNTOWN LA LAW GROUP
LAW OFFICES OF GARBER AV & DUNCAN**

MB/pm

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