

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

THANH KIM THAI, *Applicant*

vs.

**MEGNA TOFU MANUFACTURING COMPANY; FARMERS INSURANCE,
administered by BERKSHIRE HATHAWAY, *Defendants***

**Adjudication Number: ADJ13421384
Pomona District Office**

**OPINION AND ORDER
DISMISSING PETITION
FOR RECONSIDERATION**

Lien claimant, United Med Radiology Network, seeks reconsideration of the “Order Dismissing Lien/Balances” (Order) issued on December 30, 2025, by the workers’ compensation administrative law judge (WCJ). The WCJ found, in pertinent part, that lien claimant failed to appear for lien conference on October 7, 2025, and issued an order dismissing the lien pursuant to a November 7, 2025 Notice of Intention to Dismiss.

Lien claimant contends that it timely objected to the notice of intent and did not receive notice of the December 30, 2025 hearing, which is why it failed to appear.

We have not received an answer from defendant. The WCJ filed a Report and Recommendation on Petition for Reconsideration (Report) recommending that we deny reconsideration and consider the issue of sanctions.

We have considered the allegations of the Petition for Reconsideration and the contents of the WCJ’s Report. Based on our review of the record we will dismiss lien claimant’s petition for reconsideration as it was not timely filed and thus, the Appeals Board is without jurisdiction to consider the arguments raised.

FACTS

Per the WCJ's Report:

Three separate hearings were set on the issue of the lien claim of United Medical Radiology Network. The Minutes of Hearing August 19, 2025 for the lien conference showed lien claimant United Medical Radiology Network was represented by Ms. Chua. There was also an appearance for lien claimant Stephen Ho but that lien is not at issue. The disposition for the August 19, 2025 lien conference by Court Call was for the case to be set for an in person lien conference on a trial day for the WCJ.

The Court Call lien conference August 19, 2025 was continued to an in person lien conference October 7, 2025.

The Minutes of Hearing October 7, 2025, showed an appearance for defendant Farmers Insurance by Ruben Vallin. There was no appearance by lien claimant United Medical Radiology Network on October 7, 2025. The failure of the lien claimant to appear was documented in the Minutes of Hearing. Further it was noted the case was ordered off calendar at 9:40 and that an NOI to dismiss that lien was issued.

The Minutes of Hearing October 7, 2025 confirms there was no call or appearance on behalf of lien claimant on that date and the hearing, which started at 8:30, and was ended at 9:40 after more than an hour with no call or appearance by lien claimant.

Lien claimant's Objection to Notice of Intention to Dismiss Lien/Balances dated October 17, 2025 claims that on October 7, 2025 petitioner's "authorized representative experienced an unexpected travel-related mishap which rendered them unable to appear at the scheduled conference". There is no offer of proof or explanation about what happened as to this claimed occurrence at any time on the date of the hearing. There is no offer of proof or explanation given as to why that described unnamed "authorized representative" or anyone else on behalf of lien claimant United Med Radiology was not able to call in to advise the Court of any situation preventing an appearance on behalf of lien claimant on October 7, 2025.

Lien claimant's Petition for Reconsideration dated February 19, 2026 argues the non-appearance October 7, 2025 was the result of an unforeseen travel emergency, yet again failed to make any offer of proof in support of that contention. No explanation given as to why no notice was given to the Board nor was any substantive explanation given for that failure to appear. Lien claimant had an opportunity on October 7, 2025 and in the Objection to the NOI to Dismiss Lien/Balances as well as in the Petition for Reconsideration to provide a substantive response on that issue and failed to do so on each occasion.

(WCJ's Report, pp. 2-3.)

DISCUSSION

I.

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.

(§ 5909.)

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 March 4, 2026, and 60 days from the date of transmission is Sunday May 3, 2026, which by operation of law means this decision is due by Monday, May 4, 2026. (Cal. Code Regs., tit. 8, § 10600.). This decision is issued by or on May 4, 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

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

act on a petition. Section 5909(b)(2) provides that service of the Report and Recommendation shall be notice of transmission.

According to the proof of service for the Report and Recommendation by the WCJ, the Report was served on March 4, 2026, and the case was transmitted to the Appeals Board on March 4, 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 March 4, 2026.

II.

There are 20 days 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 extended to the next business day if the last day for filing falls on a weekend or holiday. (Cal. Code Regs., tit. 8, § 10508.) To be timely, however, a petition for reconsideration must be *filed* with (i.e., received by) the WCAB within the time allowed; proof that the petition was mailed within that period is insufficient. (Cal. Code Regs., tit. 8, §§ 10845(a), 10392(a).)

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, 656]; *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, 1011]; *U.S. Pipe & Foundry Co. v. Industrial Acc. Com. (Hinojoza)* (1962) 201 Cal.App.2d 545, 549 [27 Cal.Comp.Cases 73, 75-76].)

Here, the December 30, 2025 Order was served on December 30, 2025 to lien claimant and at its service email address listed in EAMS. While the Order was also served on defendant by email, their mailing address is outside of California, and in order to observe due process for all parties, we interpret Rule 10605 as extending the time to file for all parties being served. Lien claimant filed its petition for reconsideration well after both the 30-day and 25-day time periods

had run. Lien claimant alleges no basis in the petition for reconsideration how its petition is timely. According to the Order, lien claimant was served with the Order generated from the December 30, 2025 hearing. As lien claimant's Petition for Reconsideration is untimely, the Appeals Board is without jurisdiction to act.²

Accordingly, we dismiss lien claimant's Petition for Reconsideration.

² If lien claimant did not receive service of the December 30, 2025, Order, it may file a petition to set aside that order based upon improper service. However, lien claimant may only proceed upon such an argument if it is presented in good faith.

For the foregoing reasons,

IT IS ORDERED that lien claimant's Petition for Reconsideration of the Order Dismissing Lien/Balances issued on December 30, 2025, by the WCJ is **DISMISSED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

I CONCUR,

/s/ JOSEPH V. CAPURRO, COMMISSIONER

/s/ JOSÉ H. RAZO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

May 4, 2026

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

**THANH KIM THAI
STEPHEN HO
WPI LAW
SIEGEL MORENO
SCOTT STRATMAN
PUREMD GROUP
OFFICE OF THE DIRECTOR-LEGAL UNIT (LOS ANGELES)**

EDL/mt

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