

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

**WAYNE FIDUCIA, *Applicant***

**vs.**

**HEMLOCK.COM; ZURICH AMERICAN INSURANCE COMPANY, *Defendants***

**Adjudication Numbers: ADJ2695021 (ANA 0365454), ADJ2130068 (ANA 0365456),  
ADJ3474868 (ANA 0358347)  
Anaheim District Office**

**OPINION AND ORDER  
DISMISSING PETITIONS FOR  
RECONSIDERATION**

We have considered the allegations of applicant's Petitions for Reconsideration and the contents of the reports of the workers' compensation administrative law judge (WCJ) with respect thereto. Based on our review of the record, the petitions are untimely and must be dismissed.<sup>1</sup>

There are 25 days allowed within which to file a petition for reconsideration from a "final" decision that has been served by mail upon an address in California. (Lab. Code, §§ 5900(a), 5903; Cal. Code Regs., tit. 8, former § 10507(a)(1), now § 10605(a)(1) (eff. Jan. 1, 2020).) 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, former § 10508, now § 10600 (eff. Jan. 1, 2020).) 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 (posted) within that period is insufficient. (Cal. Code Regs., tit. 8, former § 10845(a), now § 10940(a); former § 10392(a), now § 10615(b) (eff. Jan. 1, 2020).)

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,

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<sup>1</sup> Commissioner Brass is no longer with the Appeals Board and therefore, another commissioner was appointed in his place on this matter.

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].)

The first petition in this matter was filed on February 16, 2021. A second petition was filed by applicant on March 12, 2021. Both filing dates are more than 25 days after the service of the WCJ's January 5, 2021 decision<sup>2</sup> and beyond whatever extension of time, if any, the petitioner might have been entitled to under WCAB Rule 10600. To the extent applicant is attempting to challenge an order regarding attorneys' fees from 2017, his petitions are also untimely with respect to that order.

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<sup>2</sup> The decision was dated January 4, 2021, but was not served until January 5, 2021.

For the foregoing reasons,

**IT IS ORDERED** that the Petitions for Reconsideration are **DISMISSED**.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ KATHERINE A. ZALEWSKI, CHAIR**

**I CONCUR,**

**/s/ AMBER INGELS, DEPUTY COMMISSIONER**

**/s/ JOSÉ H. RAZO, COMMISSIONER**



**DATED AND FILED AT SAN FRANCISCO, CALIFORNIA**

**April 14, 2021**

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

**COHEN & BLITZ  
TOBIN LUCKS  
WAYNE FIDUCIA**

***AI/pc***

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