

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

**JULIO PAIZ, *Applicant***

**vs.**

**SAN RAMON MARRIOTT HOTEL/MARRIOTT INTERNATIONAL, permissibly self-insured, administered by MARRIOTT HOT SPRINGS, *Defendants***

**Adjudication Number: ADJ2891866 (SFO 0502133)  
San Francisco District Office**

**OPINION AND ORDER  
DISMISSING PETITION FOR  
RECONSIDERATION**

Applicant, in pro per, seeks reconsideration of the Findings of Fact issued by the workers' compensation administrative law judge (WCJ) on March 8, 2022, wherein the WCJ found in pertinent part that the Appeals Board does not have jurisdiction to award applicant additional permanent partial disability indemnity, to award applicant increased compensation pursuant to Labor Code section 4553, nor to make findings relating to any alleged violation of the California Penal Code, the California Insurance Code, or the federal HIPAA statutes, and that applicant did not meet his burden of proof regarding his allegations of fraud and forgery nor his allegations of denial or delay of medical treatment. Review of the Electronic Adjudication Management System (EAMS) ADJ file indicates that applicant's Petition for Reconsideration (Petition) was filed on April 22, 2022.

By his Petition applicant makes various allegations that defendant committed fraud, forgery, and violations of numerous state and federal statutes, and that the WCJ conspired to protect defense counsel. Applicant also contends that defendant has denied medical treatment and that he is entitled additional permanent disability benefits.

We received a Report and Recommendation on Petition for Reconsideration (Report) from the WCJ recommending the Petition be dismissed as untimely or denied on the merits. We did not receive an Answer from defendant.

We have considered the allegations in the Petition, and the contents of the Report. Based on our review of the record, for the reasons stated by the WCJ in the Report, and for the reasons

discussed below, we will dismiss the Petition.

## **BACKGROUND**

Applicant claimed injury to his right upper extremity, including his right hand/middle finger, to his psyche and his internal systems (gastroesophageal reflux disease and non-ulcerative dyspepsia) while employed by defendant as a cook on April 25, 2006. On October 26, 2012, a WCJ issued a Findings and Award that included a Finding that the injury caused 45% permanent disability, and that applicant required further medical treatment to cure or relieve from the effects of his injury. On January 18, 2013, the Appeals Board issued an Opinion and Order Granting Reconsideration and Decision After Reconsideration affirming the award of 45% permanent disability indemnity and future medical treatment. On September 3, 2014, applicant filed a Petition to Reopen and by the March 18 2015 Findings of Fact and Order, the Petition to Reopen was dismissed as untimely.

Applicant filed a Declaration of Readiness to Proceed alleging that defendant was denying his medical treatment. The parties proceeded to trial on October 1, 2021. The WCJ explained to applicant that, “This Court's jurisdiction now is limited to enforcing your medical award.” (Minutes of Hearing (MOH) October 1, 2021, p. 6.) The trial was continued and at the December 8, 2021 trial the matter was submitted for decision. (MOH, December 8, 2021, p. 1.)

## **DISCUSSION**

Labor Code section 5903 states that within twenty days of service of an order, decision, or award, an aggrieved party may petition for reconsideration. (Lab. Code, § 5903.) The twenty day time period is extended by five days if, as in this case, service was by mail, (Cal. Code Regs., tit. 8, § 10605). The time period is also extended if the last day for filing a petition falls on a holiday, or as here, on a weekend. (Cal. Code Regs., tit. 8, § 10600.) Based thereon applicant's Petition would be timely if filed by April 4, 2022. A petition for reconsideration is deemed filed on the day it was actually received at the appropriate Appeals Board district office. (*Valle v. Workers' Comp. Appeals Bd.* (1973) 38 Cal.Comp.Cases 468 (writ denied); *Oliver v. Structural Services and Zenith National Ins. Co.* (1978) 43 Cal.Comp.Cases 596; (Appeals Board Panel Decision); *County of Lake v. Workers' Comp. Appeals Board (Helbush)* (1984) 49 Cal.Comp.Cases 627 (writ denied).) The time limit for filing a petition for reconsideration is jurisdictional so the Appeals Board lacks

the power to grant an untimely petition. (*State Farm General Ins. Co. v. Workers' Comp. Appeals Bd.* (2013) 218 Cal.App.4th 258 [78 Cal.Comp.Cases 758]; *Maranian v. Workers' Comp. Appeals Bd.* (2000) 81 Cal.App. 4<sup>th</sup> 1068 [65 Cal.Comp.Cases 650]; *Scott v. Workers' Comp Appeals Board* (1981) 122 Cal.App.3d 979 [46 Cal.Comp.Cases 1008].)

The Findings of Fact in this matter was served on the parties, including applicant, on March 8, 2022. Applicant's Petition was filed/received on April 22, 2022, which was 45 days after the Findings of Fact was served. Clearly, the date that the Petition was filed well exceeds the time limit imposed by Labor Code section 5903, as extended by Appeals Board rules 10605 and 10600. As noted above, the time limit for filing a petition for reconsideration is jurisdictional and the Appeals Board lacks the power to grant an untimely petition. Thus, we do not have jurisdiction regarding applicant's Petition and based thereon the Petition is dismissed.

Also, had the Petition been timely filed, it is important to note that the Petition is not verified as required by Labor Code section 5902, and the Petition is approximately 150 pages long, including the numerous documents attached, in violation of Appeals Board Rules 10940(d) and 10945(c). (Cal. Code Regs., tit. 8, §§10940(d), 10945(c).) Finally, if the Petition had been timely filed and considered on the merits, for the reasons explained by the WCJ in the Report, it would have been denied.

Accordingly, we dismiss applicant's Petition.

For the foregoing reasons,

**IT IS ORDERED** that applicant's Petition for Reconsideration of the Findings of Fact issued by the WCJ on March 8, 2022, is **DISMISSED**.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ JOSÉ H. RAZO, COMMISSIONER**

**I CONCUR,**

**/s/ MARGUERITE SWEENEY, COMMISSIONER**

**/s/ DEIDRA E. LOWE, COMMISSIONER**



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

**MAY 31, 2022**

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

**JULIO PAIZ  
LAUGHLIN, FALBO, LEVY & MORESI**

**TLH/pc**

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