

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

STEVEN WEISMAN, *Applicant*

vs.

**FARMERS INSURANCE EXCHANGE, MID-CENTURY INSURANCE COMPANY,
administered by SEDGWICK CMS, *Defendants***

**Adjudication Number: ADJ2001868 (WCK 0055156)
Van Nuys District Office**

**OPINION AND ORDER
DISMISSING PETITION FOR
RECONSIDERATION**

We have considered the allegations of the Petition for Reconsideration and the contents of the report of the workers' compensation administrative law judge (WCJ) with respect thereto. Based on our review of the record, the petition will be dismissed as skeletal.

Preliminarily, we note that the WCJ issued the Order Dismissing Lien on January 12, 2021 but served it solely on defendant, designating defendant to perform service of all other parties listed on the Official Address Record pursuant to WCAB rule 10629. However, WCAB Rule 10628 states that "The Workers' Compensation Appeals Board shall not designate a party, or their attorney or agent of record, to serve any final order, decision or award relating to a submitted issue." (Cal. Code Regs., tit. 8, former § 10500, now § 10628 (eff. Jan. 1, 2020).) The Appeals Board's March 18, 2020 In Re: COVID-19 State of Emergency En Banc (Misc. No. 260) Order does not authorize the designation of service of final decisions, orders, or awards. Rather, it suspends the portion of WCAB Rule 10628 that requires service by the WCAB by regular mail. (Cal. Code Regs., tit. 8, former § 10500, now § 10628 (eff. Jan. 1, 2020).) The en banc order (misc. No. 260) states that service by the WCAB may be performed electronically with or without parties' consent. It does not state that the WCAB may designate a party to serve a final decision, order or award. The district offices should continue to serve all parties of record with all final decisions, orders or awards (whether electronically or otherwise) and not designate a party to do so. Because the service of the January 12, 2021 Order Dismissing Lien did not comply with WCAB rule 10628, we consider it defective.

Nevertheless, the Labor Code requires that:

The petition for reconsideration shall set forth specifically and in full detail the grounds upon which the petitioner considers the final order, decision or award made and filed by the appeals board or a workers' compensation judge to be unjust or unlawful, and every issue to be considered by the appeals board. The petition shall be verified upon oath in the manner required for verified pleadings in courts of record and shall contain a general statement of any evidence or other matters upon which the applicant relies in support thereof.

(Lab. Code, § 5902, emphasis added.)

Moreover, the Appeals Board Rules provide in relevant part: (1) that “[e]very petition for reconsideration ... shall fairly state all the material evidence relative to the point or points at issue [and] [e]ach contention contained in a petition for reconsideration ... shall be separately stated and clearly set forth” (Cal. Code Regs., tit. 8, former § 10842, now § 10945 (eff. Jan. 1, 2020) and (2) that “a petition for reconsideration ... may be denied or dismissed if it is unsupported by specific references to the record and to the principles of law involved” (Cal. Code Regs., tit. 8, former § 10846, now § 10972 (eff. Jan. 1, 2020).

In accordance with section 5902 and WCAB Rules 10945 and 10972, the Appeals Board may dismiss or deny a petition for reconsideration if it is skeletal (e.g., *Cal. Indemnity Ins. Co. v. Workers' Comp. Appeals Bd. (Tardiff)* (2004) 69 Cal.Comp.Cases 104 (writ den.); *Hall v. Workers' Comp. Appeals Bd.* (1984) 49 Cal.Comp.Cases 253 (writ den.); *Green v. Workers' Comp. Appeals Bd.* (1980) 45 Cal.Comp.Cases 564 (writ den.)); if it fails to fairly state all of the material evidence, including that not favorable to it (e.g., *Addecco Employment Services v. Workers' Comp. Appeals Bd. (Rios)* (2005) 70 Cal.Comp.Cases 1331 (writ den.); *City of Torrance v. Workers' Comp. Appeals Bd. (Moore)* (2002) 67 Cal.Comp.Cases 948 (writ den.); or if it fails to specifically discuss the particular portion(s) of the record that support the petitioner's contentions (e.g., *Moore, supra*, 67 Cal.Comp.Cases at p. 948; *Shelton v. Workers' Comp. Appeals Bd.* (1995) 60 Cal.Comp.Cases 70 (writ den.).)

The Petition for Reconsideration filed herein fails to state grounds upon which reconsideration is sought or to cite with specificity to the record. Accordingly, it is subject to dismissal.

For the foregoing reasons,

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

WORKERS' COMPENSATION APPEALS BOARD

/s/ CRAIG SNELLINGS, COMMISSIONER

I CONCUR,

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER

JOSÉ H. RAZO, COMMISSIONER

CONCURRING NOT SIGNING



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

April 20, 2021

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

**PLATINUM COPY SERVICES
HANNA BROPHY**

PAG/bea

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