

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

**CHRISTOPHER SEBASTIAN, *Applicant***

**vs.**

**KAISER PERMANENTE; SEDGWICK;  
THE HARTFORD, *Defendants***

**Adjudication Numbers: ADJ10436527; ADJ8916803;  
ADJ8916805; ADJ9555348  
Oakland District Office**

**OPINION AND ORDER  
DISMISSING PETITION FOR  
RECONSIDERATION AND  
DISMISSING PETITION FOR REMOVAL**

Applicant, in pro per, filed a Petition for Reconsideration on September 5, 2022. Therein, applicant contends that he seeks reconsideration “TO JOIN KAISER SUNSET REGISTERED NURSES ASSOCIATION AS OPPOSED TO UNITED NURSES ASSOCIATION OF CALIFORNIA WHO NEVER EMPLOYED ME AND ADDRESS THE MASSIVE AMOUNT OF PRIVACY VIOLATIONS BY LFLM, UNAC, SCIF, SEDGWICK AND THE JUDGES INVOLVED IN MY WORKERS COMPENSATION CASES SINCE 2014” (Petition for Reconsideration, at p. 1 (emphasis in original).) Applicant also filed supplemental pleading<sup>1</sup> on October 14, 2022. In that supplemental pleading, applicant requests to maintain the qualified medical examiner (QME) report of Dr. Vari in Case No. ADJ8916803 and again to have violations regarding privacy addressed.

We have considered the allegations of the Petition for Reconsideration, the supplemental pleading, and the contents of the report of the workers' compensation administrative law judge

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<sup>1</sup> Pursuant to our authority, we accept applicant's supplemental pleading. (Cal. Code Regs., tit. 8, § 10964.) However, we caution applicant that “[a] party seeking to file a supplemental pleading shall file a petition setting forth good cause for the Appeals Board to approve the filing of a supplemental pleading and shall attach the proposed pleading.” (Cal. Code Regs., tit. 8, § 10964.)

(WCJ) with respect thereto. Based on our review of the record and for the reasons stated below, we will dismiss the Petition for Reconsideration as untimely.

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, § 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, § 10600.) 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, §§ 10940(a), 10615(b).)

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, 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].)

In this case, the WCJ issued a January 9, 2021 Minute Order finding employment by UNAC and designated defense counsel to serve it on all parties pursuant to former WCAB Rule 10500.<sup>2</sup> Defense counsel served applicant with the January 9, 2021 Minute Order on January 12, 2021. (Proof of Service, 1/12/21, EAMS Doc ID # 35158183.) Pursuant to the authority cited above, applicant had until Monday, February 8, 2021 to file a timely petition. Therefore, the Petition for Reconsideration filed on September 5, 2022 is untimely and will be dismissed. While applicant mentions in the current petition that he filed a prior Petition for Reconsideration, we were not able to locate it.

We would dismiss applicant’s petition as untimely even if we treated it as one seeking removal rather than reconsideration. (Cal. Code Regs., tit. 8, § 10955(a); 10605(a)(1).) The order replacing Dr. Vari as PQME also issued on January 9, 2021.

While we dismiss applicant’s petition, we note that it appears that Kaiser Foundation Hospital is the defendant in Case No. ADJ8916803 and that Kaiser Sunset Registered Nurses Association was joined as a defendant in Case No. ADJ8916805. We urge the WCJ and the parties to sort out the employment issue through mutual stipulation or on the record with evidence as there

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<sup>2</sup> Former WCAB Rule 10500 was renumbered to WCAB Rule 10628 as of January 1, 2020.

can be no meaningful review of the issue on reconsideration without the creation of a trial record. Finally, we note that the issue of the admissibility of Dr. Vari's report has not yet been decided.

For the foregoing reasons,

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

**WORKERS' COMPENSATION APPEALS BOARD**

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

/s/ CRAIG SNELLINGS, COMMISSIONER



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

**November 7, 2022**

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

**CHRISTOPHER SEBASTIAN, IN PRO PER  
THE HARTFORD  
KAISER PERMANENTE  
LAUGHLIN, FALBO, LEY & MORESI  
RESOLUTION PARTNERS  
SEDGWICK (OAKLAND)  
SEDGWICK KAISER (LEXINGTON)**

**PAG/abs**

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