

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

RASHIDA BRANCH, *Applicant*

vs.

HSN, INC.;
SAFETY NATIONAL CASUALTY COMPANY
administered by GALLAGHER BASSETT SERVICES, *Defendants*

Adjudication Number: ADJ12080133
San Bernardino District Office

**OPINION AND DECISION
AFTER RECONSIDERATION**

We previously granted reconsideration in order to allow us time to further study the factual and legal issues in this case. We now issue our Opinion and Decision After 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 and for the reasons stated below, we will vacate our grant of reconsideration and dismiss the petition as unverified.

Labor Code section 5902 requires that a petition for reconsideration be verified. (Lab. Code, § 5902; see also Cal. Code Regs., tit. 8, former § 10450(e), now § 10510(d) (eff. Jan. 1, 2020).) In *Lucena v. Diablo Auto Body* (2000) 65 Cal.Comp.Cases 1425 (Significant Panel Decision), it was held that where a petition for reconsideration is not verified as required by section 5902, the petition may be dismissed if the petitioner has been given notice of the defect (either by the WCJ's report or by the respondent's answer) unless, within a reasonable time, the petitioner either: (1) cures the defect by filing a verification; or (2) files an explanation that establishes a compelling reason for the lack of verification and the record establishes that the respondents are not prejudiced by the lack of verification.

Here, the Petition for Reconsideration is not verified and notice of this defect was specifically given by the WCJ in the November 24, 2020 Report. Moreover, a reasonable period of time has elapsed, but petitioner has neither cured the defect by filing a verification nor offered an explanation of why a verification cannot be filed. Accordingly, we will vacate our grant of reconsideration and dismiss the petition.

If we were not dismissing the petition for lack of verification, we would have denied it on the merits for the reasons stated in the WCJ's report, which we would adopt and incorporate.

For the foregoing reasons,

IT IS ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board, that our Opinion and Order Granting Petition for Reconsideration is **VACATED**.

IT IS FURTHER ORDERED that applicant's Petition for Reconsideration of the October 23, 2020 Findings, Award and Order is **DISMISSED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ DEIDRA E. LOWE, COMMISSIONER

I CONCUR,

/s/ CRAIG SNELLINGS, COMMISSIONER

/s/ KATHERINE A. ZALEWSKI, CHAIR



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

May 25, 2021

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

**RASHIDA BRANCH
LAW OFFICES OF DENNIS DASCANIO
LAW OFFICES OF KARLIN, HIURA & LASOTA**

PAG/abs

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