

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

TOSHI KUWATA, *Applicant*

vs.

**IMPLANT DIRECT, LLC;
ACE AMERICAN INSURANCE COMPANY,
administered by SEDGWICK CMS, *Defendants***

**Adjudication Number: ADJ13831018
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, and for the reasons discussed below, we will dismiss reconsideration because the Employment Development Department (EDD) is not aggrieved.

We agree with the following statement made by the WCJ in the Report:

Lien claimant EDD is in no way prejudiced by the January 11, 2023 Findings and Award, because its lien claim has not been adjudicated, and the order to pay temporary disability expressly excludes those periods against which EDD may properly assert its lien, in the form of an "EDD credit" withheld from TD payable by defendants pursuant to their May 31, 2022 stipulation. Defendants should now agree to pay to EDD the amount of this credit plus interest if they wish to avoid further interest accruing under Unemployment Insurance Code § 2629.1. In the event that defendants do not resolve the lien claim of EDD by agreement, EDD may separately adjudicate its lien claim including an ongoing claim for accruing interest under Unemployment Insurance Code § 2629.1. (Report at p. 7.)

For the foregoing reasons,

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

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ PATRICIA A. GARCIA, DEPUTY COMMISSIONER

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

April 21, 2023

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

**TOSHI KUWATA
GRAIWER & KAPLAN LAW OFFICE
SION & ASSOCIATES
EMPLOYMENT DEVELOPMENT DEPARTMENT**

PAG/mc

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