

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

**JENNA MCCOMBIE, *Applicant***

**vs.**

**REA-2003-1, LLC, A DELAWARE LIMITED  
LIABILITY COMPANY, dba SADDLE RANCH CHOP HOUSE;  
EMPLOYERS COMPENSATION INSURANCE COMPANY *Defendants***

**Adjudication Numbers: ADJ10336948, ADJ10597290, ADJ10354411  
Van Nuys District Office**

**OPINION AND ORDER  
DISMISSING PETITIONS FOR  
RECONSIDERATION**

On July 1, 2022, applicant, in pro per, filed a document entitled “WCAB COMMISSIONER CLARIFICATION REQUEST” regarding our Opinion on Decision After Reconsideration issued on April 21, 2022 and, on August 1, 2022, she filed a document entitled “WCAB COMMISSIONER CLARIFICATION PENDING” regarding the Opinion and Order Dismissing Petition for Reconsideration we issued on July 18, 2022. We will treat both documents as Petitions for Reconsideration. Based on our review of the record, we will dismiss the petition filed on July 1, 2022 as untimely and dismiss the petition filed on August 1, 2022 as successive.

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, 2 984 [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, we issued our Opinion and Decision After Reconsideration on April 21, 2022. Based on the authority cited, above, applicant had until Monday, May 16, 2022 to seek reconsideration on a timely basis. Therefore, the Petition for Reconsideration filed on July 1, 2022 is untimely and subject to dismissal.

Regarding the petition filed on August 1, 2022, it is well settled that where a party fails to prevail on a petition for reconsideration, the Appeals Board will not entertain a successive petition by that party unless the party is newly aggrieved. (*Goodrich v. Industrial Acc. Com.* (1943) 22 Cal.2d 604, 611 [8 Cal.Comp.Cases 177]; *Ramsey v. Workmen's Comp. Appeals Bd.* (1971) 18 Cal.App.3d 155, 159 [36 Cal.Comp.Cases 382]; *Crowe Glass Co. v. Industrial Acc. Com. (Graham)* (1927) 84 Cal.App. 287, 293-295 [14 IAC 221].). As stated in our en banc opinion in *Navarro v. A & A Framing* (2002) 67 Cal.Comp.Cases 296, 299:

“The general rule is that where a party has filed a petition for reconsideration with the Board, but the party does not prevail on that petition for reconsideration, the petitioning party cannot attack the [Appeal's] Board's action by filing a second petition for reconsideration; rather, the petitioning party must either be bound by the [Appeals] Board's action or challenge it by filing a timely petition for writ of review.”

If applicant wished to challenge our July 18, 2022 Opinion and Order Dismissing Petition for Reconsideration or any of our prior final decisions, it would have been appropriate for her to seek a writ of review from the Court of Appeals. It is improper for applicant to file multiple petitions for reconsideration that attempt to relitigated issues that have been finally determined against her.

The Appeals Board adjudicates Petitions for Reconsideration, Petitions for Removal, and Petitions for Disqualification within the parameters established by the Labor Code. It does not respond to correspondence, provide clarification, give legal advice, or otherwise take it upon itself to elevate a matter to a higher court. Our April 21, 2022 Opinion on Decision After Reconsideration, where we affirmed our September 17, 2019 Opinion and Order Denying Petition for Reconsideration which affirmed the August 6, 2019 Joint Findings of Fact & Order, was a final decision adverse to applicant's claims. As stated above, if applicant wished to challenge any of

our prior final decisions, it would have been appropriate for her to seek a writ of review from the Court of Appeals.

For the foregoing reasons,

**IT IS ORDERED** that the Petitions for Reconsideration are **DISMISSED**.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ JOSÉ H. RAZO, COMMISSIONER**

**I CONCUR,**

**/s/ KATHERINE A. ZALEWSKI, CHAIR**

**/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER**



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

**August 30, 2022**

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

**JENNA MCCOMBIE, IN PRO PER  
WOOD SMITH LAW FIRM**

**PAG/abs**

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