

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

**NATALIE PADILLA, *Applicant***

**vs.**

**J. DAIMLER CHRYSLER CORPORATION;  
LIBERTY MUTUAL INSURANCE COMPANY, *Defendants***

**Adjudication Number: ADJ6984914  
Stockton District Office**

**OPINION AND ORDER  
DISMISSING PETITIONS FOR  
RECONSIDERATION**

On May 17, 2021, we issued an Opinion and Decision After Reconsideration vacating our May 3, 2021 Opinion and Order Granting Petition for Reconsideration and dismissing applicant's Petition for Reconsideration filed on March 3, 2021 as untimely. Applicant subsequently filed additional Petitions and supplemental correspondence on July 9, 2021 requesting corrections of clerical errors in the May 25, 2021 Petition for Reconsideration.<sup>1</sup> Based on our review of the petitions and the record in this matter, we will dismiss the petitions to the extent they are successive to the March 3, 2021 Petition for Reconsideration and dismiss them as untimely to the extent they make any new allegation.

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

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<sup>1</sup> Pursuant to our authority, we accept applicant's supplemental correspondence. (Cal. Code Regs., tit. 8, former § 10848, now § 10964 (eff. Jan. 1, 2020).) 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, former § 10848, now § 10964 (eff. Jan. 1, 2020).) We expect applicant to comply with this requirement in the future.

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 May 17, 2021 Opinion and Decision After Reconsideration, 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 relitigate issues that have been finally determined against her.

Moreover, there are 30 days allowed within which to file a petition for reconsideration from a “final” decision that has been served by mail upon an address outside of California.<sup>2</sup> (Lab. Code, §§ 5900(a), 5903; Cal. Code Regs., tit. 8, former § 10507(a)(1), now § 10605(a)(1) (eff. Jan. 1, 2020).) 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, former § 10508, now § 10600 (eff. Jan. 1, 2020).) 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, former § 10845(a), now § 10940(a); former § 10392(a), now § 10615(b) (eff. Jan. 1, 2020).)

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].)

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<sup>2</sup> Our May 17, 2021 Opinion and Decision After Reconsideration failed to note that due to applicant’s out-of-state address, she was allowed 30 days (rather than 25), or until Monday, March 1, 2021, within which to seek reconsideration of the WCJ’s January 29, 2021 Findings of Fact, Orders. Therefore, the Petition for Reconsideration she filed on March 3, 2021 is still untimely and our May 17, 2021 order dismissing her Petition for Reconsideration was proper.

In this case, the WCJ issued the decision on January 29, 2021. Based on the authority cited above, applicant had until Monday, March 1, 2021 to seek reconsideration in a timely manner. Therefore, to the extent the current Petitions for Reconsideration filed on May 25, 2021 and on June 2, 2021 seek reconsideration of the WCJ's January 29, 2021 decision, they are untimely.

For the foregoing reasons,

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

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ MARGUERITE SWEENEY, COMMISSIONER**

**I CONCUR,**

**/s/ DEIDRA E. LOWE, COMMISSIONER**

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



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

**JULY 22, 2021**

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

**NATALIE PADILLA, IN PRO PER  
LAW OFFICES OF LYNN M. YEMPUKU**

**PAG/pc**

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