

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

**FRANCISCO CASTELLANOS NAVARRO, *Applicant***

**vs.**

**JETSHIP CORPORATION;  
PROTECTIVE INSURANCE COMPANY, *Defendants***

**Adjudication Number: ADJ11682579  
Santa Ana District Office**

**OPINION AND ORDER  
DISMISSING PETITIONS FOR  
RECONSIDERATION**

Applicant has filed a Petition for Reconsideration from the May 25, 2021 Order Dismissing Case (Order) issued by the workers' compensation administrative law judge (WCJ). The Order was issued following an April 26, 2021 Notice of Intention to Dismiss Case (NIT) due to lack of prosecution to which there was no objection. In the Petition for Reconsideration, applicant asserts his intention to now prosecute his claim. Based on our review of the record and for the reasons stated below, we will dismiss the petition as premature.

While we do not issue a decision on this issue here at the appellate level, we note that the language used by applicant in the Petition for Reconsideration appears to demonstrate a desire to re-initiate his claim of injury that should be addressed by a judge at the trial level. The prior dismissal of applicant's claim "without prejudice" had the effect of terminating the proceedings before the Workers' Compensation Appeals Board. (*Nolan v. Workers' Comp. Appeals Bd.* (1977) 70 Cal.App.3d 122, 128 [42 Cal.Comp.Cases 401].) In order to re-initiate a claim after a dismissal without prejudice, a party must file an opening document such as another Application for Adjudication of Claim or a petition to reinstate or their equivalent, subject, of course, to the time limits imposed by the statute of limitations.

This opening document should be filed at the trial level and sufficiently alert a trial judge that its intention is to seek to reinstate a particular claim. However, pursuant to WCAB Rule 10617, "[a]n application for adjudication of claim, a petition for reconsideration, a petition to

reopen or any other petition or other document that is subject to a statute of limitations or a jurisdictional time limitation shall not be rejected for filing solely on the basis that . . . the document is not filed in the proper office of the Workers' Compensation Appeals Board... [or] [t]he document has been submitted without the proper form...." (Cal. Code Regs., tit. 8, former § 10397, now § 10617 (eff. Jan. 1, 2020).) Thus, a Petition for Reconsideration may be considered an opening document for purposes of re-initiating a claim.

Accordingly, we will return this matter to the trial level to allow the WCJ to conduct further proceedings as deemed necessary to address the potential request to reinitiate applicant's claim. Applicant may also file a Declaration of Readiness to Proceed to ensure that a hearing is set on this issue.

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/ DEIDRA E. LOWE, COMMISSIONER**



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

**August 31, 2021**

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

**FRANCISCO CASTELLANOS NAVARRO  
LAW OFFICE OF JAMES DRAKE  
COLANTONI, COLLINS, MARREN, PHILLIPS & TULK**

**PAG/abs**

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