

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

JOSE GUADALUPE LOPEZ, *Applicant*

vs.

SANTA ANA UNIFIED SCHOOL DISTRICT, Permissibly Self-Insured, *Defendant*

**Adjudication Numbers: ADJ10330401; ADJ10331644
Santa Ana 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, the petition is untimely and must be dismissed.

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, 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, the WCJ issued the Findings, Award, and Order on December 15, 2021. Based on the authority cited above, applicant had until Monday, January 10, 2022 to file a timely Petition

for Reconsideration. Therefore, the Petition for Reconsideration filed on January 20, 2022 is untimely and must be dismissed.

If the petition had been timely, we would have denied it on the merits.

Finally, we admonish applicant's attorney for filing a skeletal Petition for Reconsideration. In the future, such action may be interpreted as a bad faith action or tactic that is frivolous or solely intended to cause unnecessary delay leading to the imposition of sanctions. (Cal. Code Regs., tit. 8, § 10421.)

For the foregoing reasons,

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

WORKERS' COMPENSATION APPEALS BOARD

/s/ CRAIG SNELLINGS, COMMISSIONER

I CONCUR,

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER

JOSÉ H. RAZO, COMMISSIONER
CONCUR NOT SIGNING



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

MARCH 21, 2022

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

**JOSE GUADALUPE LOPEZ
REZAI & ASSOCIATES
ATTAR & JAMOO**

PAG/pc

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