

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

PETER PACHECO, *Applicant*

vs.

**BREAKAWAY PRESS, INC.;
SENTRY INSURANCE, a Mutual Company, *Defendants***

**Adjudication Number: ADJ11126563
Van Nuys District Office**

**OPINION AND DECISION
AFTER RECONSIDERATION**

We previously granted reconsideration¹ to provide an opportunity to further study the legal and factual issues raised by the Petition for Reconsideration filed by applicant Peter Pacheco. This is our Opinion and Decision After Reconsideration.

Applicant seeks reconsideration of the May 9, 2022 Findings of Fact & Order, wherein the workers' compensation administrative law judge (WCJ) found that applicant is not entitled to reimbursement for education-related training or skill enhancement incurred at the *Tree of Life* training, which the parties stipulated is not a certified provider per California law. The WCJ also found that there is no evidence to show that the two-year statute of limitations for the Supplemental Job Displacement Benefit (SJDB) voucher was tolled and that the voucher expired by operation of law.

Applicant contends that the legislative purpose of the SJDB is to assist injured workers in obtaining gainful employment and that refusal to reimburse applicant for the *Tree of Life* training defeats the purpose of the SJDB program. Applicant also contends that the statute of limitations tolled during the time period the insurance carrier denied applicant's claim and pending adjudication of the issue.

¹ Commissioner Sweeney, who was previously a panelist in this matter, no longer serves on the Appeals Board. Another panelist has been assigned in her place.

We have not received an answer from defendants Breakaway Press, Inc./Sentry Insurance. The WCJ prepared a Report and Recommendation on Petition for Reconsideration (Report), recommending that the Petition be denied.

We have considered the Petition for Reconsideration and the contents of the Report, and we have reviewed the record in this matter. Based on the Report, which we adopt and incorporate, and for the reasons discussed below, we affirm the May 9, 2022 Findings of Fact & Order.

Labor Code² section 4658.7((e)(1) and (2) provide:

(e) The voucher may be applied to any of the following expenses at the choice of the injured employee:

(1) Payment for education-related retraining or skill enhancement, or both, at a California public school or with a provider that is certified and on the state's Eligible Training Provider List (EPTL), as authorized by the federal Workforce Investment Act (P.L. 105-220), including payment of tuition, fees, books, and other expenses required by the school for retraining or skill enhancement.

(2) Payment for occupational licensing or professional certification fees, related examination fees, and examination preparation course fees.
(§ 4658.7(e)(1) and (2).)

Here, the parties stipulated that the *Tree of Life* training is not a certified school, making it ineligible under subsection (e)(1). (Minutes of Hearing and Summary of Evidence dated March 16, 2022, Admitted Fact no. 5, p. 2:16-18.) Furthermore, we agree that there is nothing in the record suggesting that the *Tree of Life* training provides clinical pastoral education (CPE) certified by the Association for Clinical Pastoral Education (ACPE) or a certification by the national chaplaincy organization—requirements that are necessary for a chaplain job, as evidenced by Exhibits 4, 5, and 6. Although the *Tree of Life* training appears to provide a chaplaincy certification (see Exhibit B, p. 3), there is nothing in the record to show that this certification is accredited by the ACPE, which based on the job postings in evidence (Exhibits 4, 5, and 6), is the standard requirement for a chaplain position. Accordingly, we affirm the May 9, 2022 Findings of Fact & Order.

² All statutory references are to the Labor Code unless otherwise indicated.

For the foregoing reasons,

IT IS ORDERED, as the Decision After Reconsideration of the Workers' Compensation Appeals Board, that the May 9, 2022 Findings of Fact & Order is **AFFIRMED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ CRAIG L. SNELLINGS, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ PAUL F. KELLY, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

September 18, 2026

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

**PETER PACHECO
THE JIN LAW FIRM, P.C.
THOMAS KINSEY CORONA**

LSM/ara

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

**REPORT AND RECOMMENDATION
ON PETITION FOR RECONSIDERATION**

I.

INTRODUCTION

- 1. Applicant's occupation:** Pressman/stocker
- 2. Applicant's age at dates of injury:** 55
- 3. Dates of injury:** 01-30-2014 through 05-03-2016
- 4. Parts of body injured:** Bilateral knees
- 5. Identity of petitioner:** Applicant's attorney
- 6. Timeliness:** Yes
- 7. Verified:** Yes
- 8. Answer Filed:** Not at this time
- 9. Date of Action:** May 9, 2022 findings of Fact & Order re: denial of remainder of SJDBV due to its' expiration by operation of law and/or justification that it should be tolled.
- 10. The petitioner's contentions:** The evidence does not justify the findings of fact.

SKELETAL PETITION

At the outset it should be noted that a "Skeletal Petition" per 8 CCR section 10966 was filed. As that section states in salient part, a skeletal petition is "unsupported by specific references to the record and to the principles of law involved."

In this case, applicant's petition for reconsideration contains "Section I, Statement of Facts" on page 2 and "V Conclusion" on page 3 - without anything in between. This is not a clerical error as the pages are numbered consecutively. Applicant's petition appears to be the quintessential skeletal petition and "may be denied or dismissed" on that basis alone. Without any references to the record and principles of law involved the task of responding to the petition is difficult. However, the undersigned has prepared the following report.

II.

FACTS

Applicant's counsel has omitted many pertinent facts and as such the facts will be reiterated. Applicant, Peter Pacheco, was employed as a pressman/stocker by defendant, Breakaway Press, and sustained an admitted bilateral knee injury. The applicant has an additional case with the same employer that is not the subject of this litigation and the applicant has already

received and used up the Supplemental Job Displacement Benefit Voucher in that case for computer training.

Applicant's SJDBV with respect to this case, had approximately \$4500.00 left after the adjuster reimbursed the applicant for a printer and a computer. Applicant also sought reimbursement for his costs incurred at a non-certified provider wherein the applicant paid for a three year course out-of-pocket.

At a trial that was held virtually, the parties stipulated that the school the applicant attended, the "Tree of Life", is not a certified provider per California law. Applicant also introduced a letter from defendant's adjuster, Kathy Schmoll, wherein the applicant was informed in April, 2019 that Sentry would not pay for the "Tree of Life" training as it did not meet the criteria for either a public school or certified eligible training facility. In addition, the request for payment of exam fees etc. did not show that they were related to any professional certification or occupational licensing (Applicant's Exhibit 8).

The evidence also showed that the voucher for this case was provided to the applicant on July 1, 2019 and the applicant was notified that the voucher expired by operation of law on July 1, 2021 (Applicant's Exhibit 1). The SJDBV delineated the eligible expenses including, but not limited to, training/re-training at a California public school or by a provider that is certified on the State's list and occupational licensing or professional certification fees, related examination fees and exam prep and course fees (*Id.* at p. 2).

The other documentary evidence showed that the ads for chaplain positions submitted by the applicant appear to require schools with Association for Clinical Pastoral Education (ACPE) certification. No evidence was provided to show that "Tree of Life" was ACPE certified (Applicant's Exhibits 3-7; Defendant's Exhibit B).

The only testimony was from the applicant and he testified that he currently works part-time as a chaplain. The applicant paid \$4307.00 for the three year course with "Tree of Life" and confirmed that the adjuster told him in 2019 that they would not pay for this training as the school was not on the State's approved list. The applicant also testified that he was aware of the two year expiration of the voucher. The applicant confirmed that he was aware that the vocational counselor, Lori Levin, (the person that informed the applicant that she thought the applicant could be paid for the chaplain training) did not work for the defendant and there is no evidence that the defendant agreed in any way with Ms. Levin's rationale. There was absolutely no testimony that showed the

applicant was misled by the adjuster and in fact was encouraged by the adjuster to use the voucher at an approved school during its' viable period. At this juncture, the applicant wants to use the voucher for a photography school, but the voucher has since expired and no evidence was provided to show that any expenses were incurred at an approved school prior to the SJDBV's expiration.

The evidence also revealed that the applicant appealed the wrong ADJ number. However, in the Opinion, it was indicated that it was of no impact here as even if the correct case had been appealed to the Medical Unit, the applicant failed to show an exception applied.

III. DISCUSSION

Applicant's skeletal petition contains no discussion of the law as applied to the facts however the undersigned will respond as best as possible under the circumstances.

In this case, the applicant requested reimbursement for \$4307.00 for non-certified chaplain training and was denied reimbursement for same. Although the applicant indicated that he works as a chaplain, it appears that the "Tree of Life" training does not generate "gainful" employment, i.e. the applicant's own evidence shows that ACPE chaplain training is not the same as the "Tree of Life's - Footprints of Chaplaincy" training and no nexus was shown with their program and the ACPE type training mentioned in the job listings submitted by the applicant. Further, the three year course has only resulted in "part-time" employment and as such does not demonstrate gainful employment within the meaning of the law.

Also, as indicated in the Opinion, the "training" the applicant received would not generate either a professional certification or occupational license within the meaning of section 4658.7(e)(2). The applicant discussed certification from the "Tree of Life", but this is not equivalent to the type of certification contained in the job postings that were provided by the applicant nor was the course approved by ACPE or any other entity. Therefore, no exception could be carved out for the "Tree of Life" training within the meaning of the statute as defendant correctly asserted that the applicant is not entitled to reimbursement for "training" at a non-approved school.

Finally, it appears that applicant asserts that the statute of limitations contained in Labor Code section 4658.7 is tolled during the pendency of the litigation however the applicant cites no authority or evidence to show that the statute should be tolled in this case. First, the statute that applies to this date of injury is strict on the deadline and is not ambiguous. Second, no detrimental

reliance on the applicant's part was demonstrated which would be required for estoppel. Applicant's testimony showed that he was completely aware that the chaplain training was not on the approved list and was never misled by the adjuster. Without any evidence of misrepresentation on the defendant's part, there is no detrimental reliance which may have tolled the statute. The voucher expired by operation of law on July 1, 2021 per Labor Code section 4658.7(6)(f). Whatever funds remained prior to that date are no longer available and that is solely due to the applicant's actions. There is no evidence that any expenses for a State approved photography school were incurred prior to the expiration of the voucher nor is reimbursement justified on the facts. To that end, no additional funds were awarded to the applicant.

RECOMMENDATION

It is respectfully recommended that the petition for reconsideration be dismissed and/or denied.

Dated: June 6, 2022

DIANE BANCROFT

Workers' Compensation Administrative Law Judge