

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

VICTOR WASHINGTON, *Applicant*

vs.

**GATE GOURMET COMPANY; ZURICH AMERICAN INSURANCE COMPANY,
*Defendants***

**Adjudication Number: ADJ17517591
Oakland District Office**

**OPINION AND ORDER
DISMISSING PETITIONS FOR
RECONSIDERATION**

Applicant, who now represents himself, has filed numerous documents captioned “Petition for Reconsideration” purportedly seeking reconsideration of decisions issued on March 13, 2026 or April 1, 2026. As explained below, the record does not reveal any final orders, decisions, or awards issued on either date. In this matter, in a Findings and Award of November 14, 2025, it was found that while employed on June 26, 2021 as a handyman, applicant sustained industrial injury to his right knee, right leg, left hip and low back causing permanent total (100%) disability. Defendant sought reconsideration of the WCJ’s November 14, 2025 decision, which we denied on March 3, 2026.

Ten days after our denial of defendant’s Petition for Reconsideration, applicant dismissed his attorney and filed a slew of documents, including seven documents captioned “Petition for Reconsideration.” Defendant has filed a response to these documents. Applicant’s filings are not a model of clarity, and it is difficult to surmise the remedy sought by the applicant. In any case, as explained below, applicant does not appear to seek review of any final order, decision or award, and therefore reconsideration is improper. Accordingly, we will dismiss the applicant’s Petitions.

Preliminarily, we note that former Labor Code section 5909 provided that a petition for reconsideration was deemed denied unless the Appeals Board acted on the petition within 60 days from the date of filing. (Lab. Code, § 5909.) Effective July 2, 2024, Labor Code section 5909 was amended to state in relevant part that:

(a) A petition for reconsideration is deemed to have been denied by the appeals board unless it is acted upon within 60 days from the date a trial judge transmits a case to the appeals board.

(b)

(1) When a trial judge transmits a case to the appeals board, the trial judge shall provide notice to the parties of the case and the appeals board.

(2) For purposes of paragraph (1), service of the accompanying report, pursuant to subdivision (b) of Section 5900, shall constitute providing notice.

Under Labor Code section 5909(a), the Appeals Board must act on a petition for reconsideration within 60 days of transmission of the case to the Appeals Board. Transmission is reflected in Events in the Electronic Adjudication Management System (EAMS). Specifically, in Case Events, under Event Description is the phrase “Sent to Recon” and under Additional Information is the phrase “The case is sent to the Recon board.”

Here, according to Events, the case was transmitted to the Appeals Board on April 24, 2026 and 60 days from the date of transmission is June 23, 2026. This decision is issued by or on June 23, 2026, so we have timely acted on the petition as required by Labor Code section 5909(a).

Here, according to our review of the record, we did not receive a Report and Recommendation by a workers’ compensation administrative law judge. Additionally, while the WCJ did issue a notice of transmission dated April 13, 2026, as noted above, the case was not actually transmitted until April 24, 2026. Thus, notice of transmission and actual transmission did not occur on the same day. Thus, we conclude that the Notice of Transmission does not provide accurate notice of transmission under Labor Code section 5909(b)(2) because service of the Notice of Transmission did not provide actual notice to the parties as to the commencement of the 60-day period on April 24, 2026.

Thus, we conclude that the parties were not provided with accurate notice of transmission as required by Labor Code section 5909(b)(1). While this failure to provide notice does not alter the time for the Appeals Board to act on the petition, we note that as a result the parties did not have notice of the commencement of the 60-day period on April 24, 2026.

Turning to the documents filed by the applicant, Labor Code section 5903 states:

At any time within 20 days after the service of any final order, decision, or award made and filed by the appeals board or a workers’ compensation judge granting

or denying compensation, or arising out of or incidental thereto, any person aggrieved thereby may petition for reconsideration upon one or more of the following grounds and no other:

(a) That by the order, decision, or award made and filed by the appeals board or the workers' compensation judge, the appeals board acted without or in excess of its powers.

(b) That the order, decision, or award was procured by fraud.

(c) That the evidence does not justify the findings of fact.

(d) That the petitioner has discovered new evidence material to him or her, which he or she could not, with reasonable diligence, have discovered and produced at the hearing.

(e) That the findings of fact do not support the order, decision, or award.

Thus, by definition, a petition for reconsideration seeks review of a prior final order, decision or award. Here, applicant has filed seven documents captioned "Petition for Reconsideration." Three documents filed on April 6, 2026 state that they seek review of a decision issued on April 1, 2026. One document filed on April 1, 2026 left the field of the date of decision blank. Three other documents filed on March 12, 2026 stated that they sought review of decisions issued on March 13, 2026 (in other words, after the filing of the documents captioned petition for reconsideration). The last final order, decision, or award issued in this matter was the WCJ's Findings and Award of November 14, 2025. The only finding in that decision that applicant could be considered aggrieved by is the finding regarding attorneys' fees. However, since applicant did not file a petition for reconsideration within 20 days (plus five days for service) of the WCJ's November 14, 2025 decision, any petition for reconsideration is untimely. Labor Code section 5900 makes clear that the Appeals Board has no discretion to entertain untimely petitions, and mandates that a petition shall be made "only within the time ... specified in [Labor Code section 5903]." (*Scott v. Workers' Comp. Appeals Bd.* (1981) 122 Cal.App.3d 979, 984 [46 Cal.Comp.Cases 1008]; *United States Pipe & Foundry Co. v. Industrial Accident Commission (Hinojoza)* (1962) 201 Cal.App.2d 545, 548-549 [27 Cal.Comp.Cases 73] ["the provisions of [Labor Code sections 5900 and 5903] are mandatory and jurisdictional"].)

We note that along with the documents captioned Petition for Reconsideration, applicant has filed many documents captioned Petition for Serious and Willful Benefits, Petition for

Penalties and Petition to Reopen, among other things, that appear to have similar content to the documents captioned Petition for Reconsideration. These petitions have not been ruled upon at the trial level, which is a prerequisite to reconsideration.

Accordingly, because applicant has not timely sought reconsideration of a final order, decision, and award that aggrieved him, reconsideration is not proper, and we therefore dismiss all documents captioned Petition for Reconsideration. Applicant must first seek a final, decision or order of any outstanding issues at the trial level. After the issuance of a final decision, or award, any aggrieved party may seek reconsideration. While applicant seeks reconsideration of decisions dated March 13, 2026 and April 1, 2026, we find no such decisions in the electronic record of this matter. Applicant was not aggrieved by our Order Denying Reconsideration of March 3, 2026 which affirmed the finding of permanent total disability, the highest possible permanent disability award.

We note that on April 3, 2026, defendant filed a petition to have applicant declared a vexatious litigant pursuant to Appeals Board Rule 10430 (Cal. Code Regs., tit. 8, § 10430). We encourage the WCJ to promptly consider this petition along with any other outstanding issues in this matter.

For the foregoing reasons,

IT IS ORDERED that applicant's documents captioned Petition for Reconsideration, including those seeking review of purported decisions of March 13, 2026 and April 1, 2026 are **DISMISSED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

ANNE SCHMITZ, DEPUTY COMMISSIONER
CONCURRING NOT SIGNING



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

June 23, 2026

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

**VICTOR WASHINGTON
ALBERT AND MACKENZIE**

Oo

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