

**WORKERS' COMPENSATION APPEALS BOARD**

**STATE OF CALIFORNIA**

**PARISS KELLY, *Applicant***

**vs.**

**CARPET MASTER CHEM-DRY; WAUSAU UNDERWRITER'S INSURANCE  
COMPANY, insured by LIBERTY MUTUAL INSURANCE COMPANY, *Defendants***

**Adjudication Number: ADJ7026552  
Oakland District Office**

**OPINION AND ORDER  
DISMISSING PETITION FOR  
RECONSIDERATION  
AND DENYING PETITION  
FOR REMOVAL**

On January 23, 2024 at 9:09 a.m., applicant, in pro per, filed a Petition for Reconsideration regarding the January 22, 2024 Minute Order issued by the workers' compensation administrative law judge (WCJ) taking this matter off calendar. We have considered the allegations of the petition and the contents of the report of the WCJ with respect thereto. Based on our review of the record, and based upon the WCJ's analysis of the merits of the petitioner's arguments in the WCJ's report, we will dismiss the petition to the extent it seeks reconsideration and deny it to the extent it may seek removal.

A petition for reconsideration may properly be taken only from a "final" order, decision, or award. (Lab. Code, §§ 5900(a), 5902, 5903.) A "final" order has been defined as one that either "determines any substantive right or liability of those involved in the case" (*Rymer v. Hagler* (1989) 211 Cal.App.3d 1171, 1180; *Safeway Stores, Inc. v. Workers' Comp. Appeals Bd. (Pointer)* (1980) 104 Cal.App.3d 528, 534-535 [45 Cal.Comp.Cases 410]; *Kaiser Foundation Hospitals v. Workers' Comp. Appeals Bd. (Kramer)* (1978) 82 Cal.App.3d 39, 45 [43 Cal.Comp.Cases 661]) or determines a "threshold" issue that is fundamental to the claim for benefits. (*Maranian v. Workers' Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1070, 1075 [65 Cal.Comp.Cases 650].) Interlocutory procedural or evidentiary decisions, entered in the midst of the workers'

compensation proceedings, are not considered “final” orders. (*Id.* at p. 1075 [“interim orders, which do not decide a threshold issue, such as intermediate procedural or evidentiary decisions, are not ‘final’ ”]; *Rymer, supra*, at p. 1180 [“[t]he term [‘final’] does not include intermediate procedural orders or discovery orders”]; *Kramer, supra*, at p. 45 [“[t]he term [‘final’] does not include intermediate procedural orders”].) Such interlocutory decisions include, but are not limited to, pre-trial orders regarding evidence, discovery, trial setting, venue, or similar issues.

Here, the WCJ’s January 22, 2024 Minute Order taking this matter off calendar is not a final order. Accordingly, the petition will be dismissed to the extent it seeks reconsideration.

Even if we treated the petition as one seeking removal, we would deny it. Removal is an extraordinary remedy rarely exercised by the Appeals Board. (*Cortez v. Workers’ Comp. Appeals Bd.* (2006) 136 Cal.App.4th 596, 599, fn. 5 [71 Cal.Comp.Cases 155]; *Kleemann v. Workers’ Comp. Appeals Bd.* (2005) 127 Cal.App.4th 274, 280, fn. 2 [70 Cal.Comp.Cases 133].) The Appeals Board will grant removal only if the petitioner shows that substantial prejudice or irreparable harm will result if removal is not granted. (Cal. Code Regs., tit. 8, § 10955(a)); see also *Cortez, supra*; *Kleemann, supra*.) Also, the petitioner must demonstrate that reconsideration will not be an adequate remedy if a final decision adverse to the petitioner ultimately issues. (Cal. Code Regs., tit. 8, § 10955(a).) Here, based upon the WCJ’s analysis of the merits of the petitioner’s arguments, we are not persuaded that significant prejudice or irreparable harm will result if removal is denied and/or that reconsideration will not be an adequate remedy.

Finally, we note that on January 23, 2024, the same day that applicant filed the petition addressed here, the Presiding Judge issued an Order Declaring Vexatious Litigant and Pre-filing Order that was served on petitioner by U.S. mail. Applicant’s January 23, 2024 petition does not seek reconsideration of the Order Declaring Vexatious Litigant and Pre-filing Order. Likewise, applicant’s handwritten filings on February 9, 2024 and February 27, 2024, which appear to be affidavits in support of a multimillion-dollar request for penalties, do not request reconsideration of the January 23, 2024 Order Declaring Vexatious Litigant and Pre-filing Order. Therefore, we do not address the January 23, 2024 Order Declaring Vexatious Litigant and Pre-filing Order here.

For the foregoing reasons,

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

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ JOSEPH V. CAPURRO, COMMISSIONER**

**I CONCUR,**

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

**/s/ PATRICIA A. GARCIA, DEPUTY COMMISSIONER**



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

**March 25, 2024**

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

**PARISS KELLY (pro per)  
MULLEN FILIPPI**

**PAG/ pm**

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