

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

PRESTON LEE BROWN SCOTT, *Applicant*

vs.

**CITY OF LOS ANGELES, permissibly self-insured; OPSEC; THE HARTFORD,
*Defendants***

**Adjudication Numbers: ADJ10110995 (Master File), ADJ16471052
Van Nuys District Office**

**VEXATIOUS LITIGANT
PRE-FILING REVIEW
PURSUANT TO
CALIFORNIA CODE OF REGULATIONS,
TITLE 8, SECTION 10430
OPINION AND ORDER
DISMISSING PETITION FOR
RECONSIDERATION**

On November 6, 2018, applicant was declared a vexatious litigant subject to a pre-filing order pursuant to California Code of Regulations, title 8, section 10430. (Cal. Code Regs., tit. 8, § 10430.) Under WCAB Rule 10430, applicant must obtain prior approval from the Presiding Workers' Compensation Judge or the Appeals Board before he or she is allowed to file any application(s) for adjudication of claim, declaration(s) of readiness to proceed, pleading(s), petition(s) or other request(s) for action by the Workers' Compensation Appeals Board, unless document(s) are filed by a licensed attorney, who has assumed applicant's representation.

Applicant, in pro per, has conditionally filed multiple Petitions for Reconsideration with the Appeals Board, as listed below. We have considered the contents of the petitions and the record in this case.¹ Based on our review, we will accept the Petition for Reconsideration filed on

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

April 10, 2023 in Case No. ADJ16471052² and dismiss it as premature for the reasons stated below. We will then return this matter to the trial level for the WCJ to adjudicate applicant's petition as one to set aside the Compromise and Release. We will treat the Petitions for Reconsideration filed on April 11, 2023 as supplemental pleading and reject them pursuant to our authority. (Cal. Code Regs., tit. 8, § 10964.)

Stipulations are binding on the parties unless, on a showing of good cause, the parties are given permission to withdraw from their agreements. (*County of Sacramento v. Workers' Comp. Appeals Bd. (Weatherall)* (2000) 77 Cal.App.4th 1114, 1121 [65 Cal.Comp.Cases 1].) As defined in *Weatherall*, "A stipulation is 'An agreement between opposing counsel . . . ordinarily entered into for the purpose of avoiding delay, trouble, or expense in the conduct of the action,' (Ballentine, Law Dict. (1930) p. 1235, col. 2) and serves 'to obviate need for proof or to narrow range of litigable issues' (Black's Law Dict. (6th ed. 1990) p. 1415, col. 1) in a legal proceeding." (*Weatherall, supra*, 77 Cal.App.4th at p. 1119.)

"Good cause" to set aside an order or stipulations depends upon the facts and circumstances of each case. "Good cause" includes mutual mistake of fact, duress, fraud, undue influence, and procedural irregularities. (*Johnson v. Workmen's Comp. Appeals Bd.* (1970) 2 Cal.3d 964, 975 [35 Cal.Comp.Cases 362]; *Santa Maria Bonita School District v. Workers' Comp. Appeals Bd.* (2002) 67 Cal.Comp.Cases 848, 850 (writ den.); *City of Beverly Hills v. Worker's Comp. Appeals Bd. (Dowdle)* (1997) 62 Cal.Comp.Cases 1691, 1692 (writ den.); *Smith v. Workers' Comp. Appeals Bd.* (1985) 168 Cal.App.3d 1160, 1170 [50 Cal.Comp.Cases 311] (writ den.)) To determine whether there is good cause to rescind a stipulation, the circumstances surrounding its execution and approval must be assessed. (See § 5702; *Weatherall, supra*, 77 Cal.App.4th at pp. 1118-1121; *Robinson v. Workers' Comp. Appeals Bd. (Robinson)* (1987) 199 Cal.App.3d 784, 790-792 [52 Cal.Comp.Cases 419]; *Huston v. Workers' Comp. Appeals Bd. (Huston)* (1979) 95 Cal.App.3d 856, 864-867 [44 Cal.Comp.Cases 798].)

There is currently no evidence in the record regarding applicant's allegations of undue influence, coercion, and duress. Consequently, it is premature to address these contentions and we will return this matter to the trial level for consideration of the petition as a petition to set aside.

² Applicant conditionally filed five (5) handwritten Petitions for Reconsideration DWC/WCAB Form 45 together on April 10, 2023 all appearing to make similar allegations. We will treat the 5 Petitions for Reconsideration filed together on April 10, 2023 as a single Petition for Reconsideration.

Upon return to the trial level, the presiding judge may also consider whether this matter should be consolidated with Case No. ADJ10110995 (MF).

For the foregoing reasons,

IT IS ORDERED that the Petition for Reconsideration filed on April 10, 2023 in Case No. ADJ16471052 is **ACCEPTED** for filing.

IT IS FURTHER ORDERED that the Petition for Reconsideration filed on April 10, 2023 in Case No. ADJ16471052 is **DISMISSED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ JOSEPH V. CAPURRO, COMMISSIONER

/s/ PATRICIA A. GARCIA, DEPUTY COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

June 9, 2023

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

**LAUGHLIN FALBO LEVY & MORESI
LOS ANGELES CITY ATTORNEY
OPSEC
THE HARTFORD
PRESTON LEE BROWN SCOTT
ZGRABLICH & MOTGOMERY**

PAG/abs

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