

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

THOMAS LOPEZ, *Applicant*

vs.

**SWIFT TRANSPORTATION; CALIFORNIA INS. GUARANTEE ASSOCIATION,
administered by INTERCARE, et. al., *Defendants***

**Adjudication Numbers: ADJ2618433 MF (RIV 0063740), ADJ10382282, ADJ2437317
(RIV 0075756), ADJ2902606 (RIV 0063741)
Riverside District Office**

**OPINION AND ORDER
DISMISSING PETITION FOR
RECONSIDERATION**

Applicant seeks reconsideration of the Opinion and Decision After Reconsideration (Decision) issued on February 28, 2024, by the Appeals Board. In the Opinion portion of our Decision, in pertinent part, we admonished applicant's attorney, Juan Armenta of English Lloyd & Armenta, that as an officer of the court, he may not include material misstatements of fact in verified petitions before a court and that such conduct may subject him to sanctions. (See § 5813; Cal. Code Regs., tit. 8, § 10421.)

Applicant seeks reconsideration of this admonishment and argues that it issued in error.

Based on our review of the record and the allegations of the Petition, and for the reasons contained in our February 28, 2024 Decision, we will dismiss the Petition for Reconsideration as the petition does not seek reconsideration of a final order, decision, or award. To the extent that counsel request an amended opinion to issue as a matter of courtesy, good cause was not presented to issue an amended opinion.

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. As our decision after reconsideration, we rescinded the Joint Findings, Award and Orders of July 8, 2020, and returned the matter to the trial level. We stated in our order that when the workers' compensation administrative law judge (WCJ) issues a new decision, any aggrieved person may timely seek reconsideration. The Decision did not give rise to an enforceable final order under Labor Code section 5806, and the right to reconsideration under Labor Code section 5900 will arise when the WCJ issues a new decision. Thus, the order issued by us was a non-final order.

Here, counsel seeks reconsideration of an admonishment contained within the text of our opinion. An admonishment is “a firm warning or reprimand”. (“Admonishment”, Google Dictionary, retrieved March 28, 2024, from <http://www.google.com>.) An admonishment is not an order, decision, or award. Accordingly, to the extent that counsel seeks reconsideration, the petition will be dismissed.

However, we also note that the bench must show courtesy, respect, and civility toward all parties appearing before it. Admonishments do not issue lightly. The purpose of an admonishment is not to embarrass a party. The purpose is to sincerely warn parties where their conduct is improper.

In cases where a party believes that an admonishment issued in error, counsel may respectfully raise this issue with the court. If an admonishment issued in error, it should be retracted with the court's apologies. We have accepted counsel's petition for reconsideration as requesting such courtesy. We have reviewed the record as to the admonishment. The admonishment appropriately issued. No further action will be taken at this time.

For the foregoing reasons,

IT IS ORDERED, the Petition for Reconsideration filed on February 28, 2024, is **DISMISSED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ JOSÉ H. RAZO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

April 8, 2024

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

**TESTAN LAW
ENGLISH LLOYD & ARMENTA
FLOYD, SKEREN, MANUKIAN, LANGEVIN
GODFREY, GODFREY, LAMB & ORTEGA
THOMAS LOPEZ**

EDL/oo

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