

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

VERONICA EMMERICHs, *Applicant*

vs.

**RALEYS FAMILY OF FINE FOODS, permissibly self-insured,
administered by CORVEL, *Defendants***

**Adjudication Numbers: ADJ16697404, ADJ16698657, ADJ16698658, ADJ18451293
Sacramento District Office**

**OPINION AND ORDER
DENYING PETITION FOR
DISQUALIFICATION**

Applicant's Petition for Disqualification (Petition), filed June 20, 2025, seeks to disqualify the workers' compensation administrative law judge (WCJ).

Applicant, proceeding in pro per, contends in the Petition that the WCJ should be disqualified for "flirting" with opposing counsel, "laughing," "playing games at my expense," and for dismissing applicant's case without notice to applicant and without applicant's consent.

We have not received an Answer from defendant.

The WCJ issued a Report and Recommendation on Petition for Disqualification (Report) recommending that the Petition be denied.

We have considered the allegations in the Petition and the contents of the Report with respect thereto. Based on our review of the record, and as discussed below, we will deny the Petition for Disqualification.

BACKGROUND

Applicant filed three applications for adjudication on September 16, 2022, and a fourth application on November 7, 2023. Her first claim was for a specific injury on July 17, 2020, to her wrist, foot, and arm (ADJ16697404); her second claim was a cumulative injury claim from October 1, 2019 to August 2, 2022, to her head, neck, back, arm, and hand (ADJ16698657); her

third claim was a cumulative injury claim from August 1, 2021 to August 12, 2022, to her head and nervous system (ADJ16698658); and her fourth claim was a cumulative injury claim from October 1, 2019 to August 2, 2022, to her neck, arm, back, and shoulders. (ADJ18451293.)

On December 16, 2024, the matter was heard for trial in applicant's absence.¹ On the same date, a "Notice of Intention to Dismiss Case" (NIT) was issued, indicating that the matter would be dismissed due to applicant's failure to appear on November 4 and December 26, 2024, unless good cause was shown. (12/16/24 NIT.) The December 16, 2024 minutes and NIT were served on applicant by defendant. (12/17/24 POS.) The WCJ issued the Order Dismissing Cases, pursuant to the NIT, on January 10, 2025. (1/10/25 Dismissal Order.)

Applicant filed a Petition for Reconsideration on March 2, 2025, challenging the January 10, 2025 dismissal.

We issued an Opinion and Order Granting Petition for Reconsideration and Decision After Reconsideration on May 9, 2025, in which we agreed with applicant that she was not adequately served with the notices of hearing for the October 9 and November 4, 2024 hearing dates. (5/9/25 Opinion and Order.) We concluded that the dismissal order was based on an invalid NIT and was therefore void. (*Ibid.*) We granted applicant's Petition for Reconsideration, rescinded the January 10, 2025 Order Dismissing Cases, and returned the matter to the WCJ for further proceedings. (*Ibid.*)

Applicant filed her Petition for Disqualification on June 20, 2025.

DISCUSSION

Labor Code Section 5311² provides that a party may seek to disqualify a WCJ upon any one or more of the grounds specified in Code of Civil Procedure section 641. (Lab. Code, § 5311; see also Code Civ. Proc., § 641.) Among the grounds for disqualification under section 641 are that the WCJ has "formed or expressed an unqualified opinion or belief as to the merits of the action" (Code Civ. Proc., § 641(f)) or that the WCJ has demonstrated "[t]he existence of a state of mind ... evincing enmity against or bias toward either party." (Code Civ. Proc., § 641(g).)

Under WCAB Rule 10960, proceedings to disqualify a WCJ "shall be initiated by the filing of a petition for disqualification supported by an affidavit or declaration under penalty of perjury

¹ Please see our prior opinion, dated May 9, 2025, for a more complete discussion of the background of this case.

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

stating in detail *facts* establishing one or more of the grounds for disqualification” (Cal. Code Regs., tit. 8, § 10960, italics added.) It has long been recognized that “[t]he allegations in a statement charging bias and prejudice of a judge must set forth specifically the *facts* on which the charge is predicated,” that “[a] *statement containing nothing but conclusions and setting forth no facts* constituting a ground for disqualification may be ignored,” and that “[w]here no *facts* are set forth in the statement *there is no issue of fact to be determined.*” (*Mackie v. Dyer* (1957) 154 Cal.App.2d 395, 399, italics added.) Under no circumstances may a party’s unilateral and subjective perception of bias afford a basis for disqualification. (*Haas v. County of San Bernardino* (2002) 27 Cal.4th 1017, 1034; *Robbins v. Sharp Healthcare* (2006) 71 Cal.Comp.Cases 1291, 1310-1311 (Significant Panel Decision).)

Furthermore, even if detailed and verified allegations of fact have been made, it is settled law that a WCJ is not subject to disqualification under Code of Civil Procedure section 641(f) if, prior to rendering a decision, the WCJ expresses an opinion regarding a legal or factual issue but the petitioner fails to show that this opinion is a fixed one that could not be changed upon the production of evidence and the presentation of arguments at or after further hearing. (*Taylor v. Industrial Acc. Com. (Thomas)* (1940) 38 Cal.App.2d 75, 79-80 [5 Cal.Comp.Cases 61].)³ Additionally, even if the WCJ expresses an unqualified opinion on the merits, the WCJ is not subject to disqualification under Code of Civil Procedure section 641(f) if that opinion is “based upon the evidence then before [the WCJ] and upon [the WCJ’s] conception of the law as applied to such evidence.” (*Ibid.*; cf. *Kreling v. Superior Court* (1944) 25 Cal.2d 305, 312 [“It is [a judge’s] duty to consider and pass upon the evidence produced before him, and when the evidence is in conflict, to resolve that conflict in favor of the party whose evidence outweighs that of the opposing party.”].)

It is “well settled ... that the expressions of opinion uttered by a judge, in what he conceives to be a discharge of his official duties, are not evidence of bias or prejudice” under Code of Civil Procedure section 641(g) (*Kreling, supra*, 25 Cal.2d at pp. 310-311; accord: *Mackie, supra*, 154 Cal.App.2d at pp. 399-400) and that “[e]rroneous rulings against a litigant, even when numerous and continuous, form no ground for a charge of bias or prejudice, especially when they are subject to review.” (*McEwen v. Occidental Life Ins. Co.* (1916) 172 Cal. 6, 11; accord: *Mackie, supra*, 154

³ Overruled on other grounds in *Lumbermen’s Mut. Casualty Co. v. Industrial Acci. Com. (Cacozza)* (1946) 29 Cal.2d 492, 499 [11 Cal.Comp.Cases 289].

Cal.App.2d at p. 400.) Similarly, “when the state of mind of the trial judge appears to be adverse to one of the parties but is based upon actual observance of the witnesses and the evidence given during the trial of an action, it does not amount to that prejudice against a litigant which disqualifies” the judge under Code of Civil Procedure section 641(g). (*Kreling, supra*, 25 Cal.2d at p. 312; see also *Moulton Niguel Water Dist. v. Colombo* (2003) 111 Cal.App.4th 1210, 1219 [“When making a ruling, a judge interprets the evidence, weighs credibility, and makes findings. In doing so, the judge necessarily makes and expresses determinations in favor of and against parties. How could it be otherwise? We will not hold that every statement a judge makes to explain his or her reasons for ruling against a party constitutes evidence of judicial bias.”].)

WCAB Rule 10960 provides that when the WCJ and “the grounds for disqualification” are known, a petition for disqualification “shall be filed not more than 10 days after service of notice of hearing or after grounds for disqualification are known.” (Cal. Code Regs., tit. 8, § 10960.)

Here, the Petition for Disqualification does not include a declaration or affidavit providing facts, declared under penalty of perjury, that are sufficient to establish disqualification pursuant to Labor Code section 5311, WCAB Rule 10960, and Code of Civil Procedure section 641(f) and/or (g). Moreover, the Petition is untimely pursuant to WCAB Rule 10960. The Petition challenges the WCJ’s January 10, 2025 Order Dismissing Cases, as well as the demeanor of the WCJ at an unknown hearing date. The Petition was filed on June 20, 2025. No hearing took place in the ten days prior to that date. Since the Petition was not filed within 10 days “after service of notice of hearing or after grounds for disqualification are known,” it is untimely. (Cal. Code Regs., tit. 8, § 10960.)

Accordingly, the Petition for Disqualification is denied

For the foregoing reasons,

IT IS ORDERED that the Petition for Disqualification is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER

/s/ CRAIG L. SNELLINGS, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

NOVEMBER 6, 2025

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

**VERONICA EMMERICH
LLARENA MURDOCK LOPEZ & AZIZAD, APC**

MB/ara

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