

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

ANDREA RIOS *Applicant*

vs.

**PARTNERS PERSONNEL MANAGEMENT SERVICES, LLC; CTRUST STAFFING
LLC; SUNZ INSURANCE COMPANY, administered by NEXT LEVEL;
STARR SPECIALTY INSURANCE COMPANY, administered by CORVEL, *Defendants***

**Adjudication Number: ADJ17466712
Fresno District Office**

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

Applicant, in pro per, seeks reconsideration of the Order issued and served by the workers' compensation administrative law judge (WCJ) on February 27, 2026, wherein the WCJ ordered the status conference of February 26, 2026 be continued to another status conference.

Applicant contends, in essence, that although she attempted to appear at the February 26, 2026 status conference, she was unable to do so because of a technical or administrative error, and that the record should reflect applicant's participation. Petitioner further requests that the case be returned for a hearing in order to ensure applicant due process and an opportunity to present evidence and participate in the proceedings.

We have not received an Answer from either defendant.

The WCJ issued a Report and Recommendation on Petition for Reconsideration (Report) recommending that we deny reconsideration.

We have considered the allegations of applicant's Petition and the contents of the WCJ's Report. Based on our review of the record and for the reasons discussed below, we will dismiss applicant's Petition for Reconsideration as applicant seeks reconsideration of a non-final order. We will treat the Petition as seeking removal and deny removal as applicant failed to demonstrate irreparable harm, significant prejudice, or that reconsideration will not be an adequate remedy after the issuance of a final order, decision or award. (Cal. Code Regs., tit. 8, § 10955.)

DISCUSSION

I.

Preliminarily, former Labor section 5909¹ 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, 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 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 under the Events tab 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 March 9, 2026, and 60 days from the date of transmission is Friday, May 8, 2026. This decision was issued by or on May 8, 2026, so that we have timely acted on the petition as required by section 5909(a).

Section 5909(b)(1) requires that the parties and the Appeals Board be provided with notice of transmission of the case. Transmission of the case to the Appeals Board in EAMS provides notice to the Appeals Board. Thus, the requirement in subdivision (1) ensures that the parties are notified of the accurate date for the commencement of the 60-day period for the Appeals Board to act on a petition. Section 5909(b)(2) provides that service of the Report shall constitute notice of transmission.

¹ All section references are to the Labor Code, unless otherwise indicated.

Here, according to the proof of service for the Report, it was served on March 9, 2026 and the case was transmitted to the Appeals Board on March 9, 2026. Service of the Report and transmission of the case to the Appeals Board occurred on the same day. Thus, we conclude that the parties were provided with the notice of transmission required by section 5909(b)(1) because service of the Report in compliance with section 5909(b)(2) provided them with actual notice as to the commencement of the 60-day period on March 9, 2026.

II.

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. (*Maranian, supra*, 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 applicant is seeking reconsideration of the Order issued by the WCJ on February 27, 2026, wherein the WCJ continued the status conference held on February 26, 2026 to another status conference. The WCJ’s decision solely to continue a hearing resolves an intermediate procedural or evidentiary issue. The decision does not determine any substantive right or liability and does not determine a threshold issue. Accordingly, it is not a “final” decision, and the Petition will be dismissed.

In the Report, the WCJ observes that although applicant logged into Court Call, because of connection issues, applicant could not appear and participate at the February 26, 2026 status

conference, and that applicant did not fail to appear due to any fault of her own. We agree with the WCJ that applicant's due process rights were preserved when the WCJ continued the hearing to another status conference. Upon return to the trial level, we recommend that applicant attend the next status conference and be afforded the opportunity to address the claim of inconsistencies in the discovery records related to subpoenaed medical records, as well as any other issues related to discovery thereto. If the case is no longer scheduled on the Court's calendar for such a status conference, the WCJ should reset the case for a new status conference to afford applicant that opportunity.

For the foregoing reasons,

IT IS ORDERED applicant's Petition for Reconsideration of the Order issued by the WCJ on February 27, 2026 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/ PAUL F. KELLY, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

May 8, 2026

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

**ANDREA RIOS
LAW OFFICE OF VICTORIA TORIGIAN
EM LEGAL**

JL/abs

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