

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

ANIL RAJ RAJVANSH, *Applicant*

vs.

**HOGAN MANUFACTURING;
TRAVELERS, *Defendants***

**Adjudication Numbers: ADJ7724385, ADJ7724338, ADJ7724329,
ADJ8144666, ADJ7724361
Lodi District Office**

**OPINION AND ORDERS
DISMISSING PETITIONS FOR RECONSIDERATION
GRANTING PETITIONS FOR REMOVAL
AND DECISION AFTER REMOVAL**

On April 29, 2026, applicant, in pro per, filed two Petitions for Reconsideration (Petitions), one dated March 18, 2026, and the other dated April 10, 2026. Based on the March Petition, it appears applicant seeks reconsideration of the order taking the mandatory settlement conference (MSC) on March 17, 2026 off calendar (Order) issued by the presiding workers' compensation administrative law judge (PWCJ). Based on the April Petition, it appears applicant seeks, in essence, to set aside his settlement.

We have not received an Answer from the defendant.

The PWCJ issued a Report and Recommendation on Petition for Reconsideration (Report), recommending that the Petitions be denied.

We have considered the allegations of the Petitions and the contents of the Report. Based on our review of the record and for the reasons discussed below, we will dismiss both of applicant's Petitions as ones for reconsideration, grant the Petitions as ones for removal and rescind the March 17, 2026 Order taking the matter off calendar. We will return this matter to the trial level for further proceedings consistent with this opinion.

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 cases were transmitted to the Appeals Board on May 12, 2026, and 60 days from the date of transmission is July 11, 2026, which is a Saturday. The next business day that is 60 days from the date of transmission is Monday, July 13, 2026. (See Cal. Code Regs., tit. 8, § 10600(b).)² This decision was issued by or on July 13, 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

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

² WCAB Rule 10600(b) (Cal. Code Regs., tit. 8, § 10600(b)) states that: Unless otherwise provided by law, if the last day for exercising or performing any right or duty to act or respond falls on a weekend, or on a holiday for which the offices of the Workers’ Compensation Appeals Board are closed, the act or response may be performed or exercised upon the next business day.

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.

Here, according to the proof of service for the Report, it was served on May 12, 2026, and the cases were transmitted to the Appeals Board on May 12, 2026. Service of the Report and transmission of the cases 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 May 12, 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. (*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.

In the March Petition, it appears applicant seeks reconsideration of the WCJ’s Order in the Minutes of Hearing taking the March 17, 2026 MSC off calendar. The WCJ’s decision to take a hearing off calendar solely resolves an intermediate procedural or evidentiary issue or issues. 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 we will, therefore, dismiss applicant’s March Petition for Reconsideration and treat the Petition as a Petition for Removal.

In the April Petition, applicant contends he is aggrieved by a decision that was issued on April 10, 2026. However, we are unable to identify any decision that was issued on this date, whether final or interlocutory. Section 5310 authorizes the Appeals Board to “remove” any proceedings “to itself.” WCAB Rule 10955(a) allows a party to seek removal after “the occurrence of the action in issue.” (Cal. Code Regs., tit. 8, § 10955(a).) It appears that applicant, in essence, seeks to set aside his settlement which included medical treatment to his back. As applicant has not filed a Petition from a “final” order, decision, or award to reconsider as required by sections 5900(a), 5902 and 5903, we will also dismiss this Petition for Reconsideration and treat the Petition as a Petition for Removal.

III.

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 significant 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, we previously issued an Opinion and Order Dismissing Petition for Reconsideration (Opinion) on December 5, 2025. In the Opinion, we recommended that applicant attend the December 8, 2025 hearing to raise any concerns regarding the status of his medical care. (Opinion, dated December 5, 2025, at p. 3.) Although the hearing took place on December 8, 2025, applicant was unable to attend because he was ill. (MOH, dated December 8, 2025.) The PWCJ continued the MSC to January 6, 2026. (*Id.*) At the January 6, 2026 MSC, applicant appeared and the PWCJ continued the hearing to March 17, 2026 to allow for a final Medicare Set Aside (MSA). (MOH, dated January 6, 2026.) At the March 17, 2026 MSC, the PWCJ took the matter off calendar as there was no MSA. (MOH, dated March 17, 2026.)

Although several hearings have taken place, and apparently, applicant has raised the issue of a set aside on several occasions, to date the PWCJ has failed to create a record. Accordingly,

we conclude that significant prejudice or irreparable harm will result, and that applicant will not have an adequate remedy upon reconsideration. Thus, we grant the Petitions as ones for removal.

IV.

All parties in workers' compensation proceedings retain their fundamental right to due process and a fair hearing under both the California and United States Constitutions. (*Rucker v. Workers' Comp. Appeals Bd.* (2000) 82 Cal.App.4th 151, 157-158 [65 Cal.Comp.Cases 805].) Due process guarantees all parties the right to notice of hearing and a fair hearing. (*Id.*) A fair hearing includes the opportunity to call and cross-examine witnesses; introduce and inspect exhibits; and to offer evidence in rebuttal. (See *Gangwish v. Workers' Comp. Appeals Bd.* (2001) 89 Cal.App.4th 1284, 1295 [66 Cal.Comp.Cases 584]; *Rucker, supra*, at 157-158 citing *Kaiser Co. v. I.A.C. (Baskin)* (1952) 109 Cal.App.2d 54, 58 [17 Cal.Comp.Cases 21]; *Katzin v. Workers' Comp. Appeals Bd.* (1992) 5 Cal.App.4 703, 710 [57 Cal.Comp.Cases 230].)

A WCJ is required to "make and file findings upon all facts involved in the controversy and an award, order, or decision stating the determination as to the rights of the parties. Together with the findings, decision, order or award there shall be served upon all the parties to the proceedings a summary of the evidence received and relied upon and the reasons or grounds upon which the determination was made." (Lab. Code, §§ 5502, 5313; Cal. Code Regs., tit. 8, § 10761; see also *Blackledge v. Bank of America, ACE American Insurance Company* (2010) 75 Cal.Comp.Cases 613, 621-622 (Appeals Bd. en banc).)

Additionally, there must be a complete record for our review of the case. "[A] proper record enables any reviewing tribunal, be it the Board on reconsideration or a court on further appeal, to understand the basis for the decision." (*Hamilton v. Lockheed Corporation* (2001) 66 Cal.Comp.Cases 473, 475 (Appeals Bd. en banc).) The Appeals Board's record of proceedings is maintained in the adjudication file and consists of: the pleadings, minutes of hearing and summary of evidence, transcripts, if prepared and filed, proofs of service, evidence received in the course of a hearing, exhibits marked but not received in evidence, notices, petitions, briefs, findings, orders, decisions, and awards, and the arbitrator's file, if any. . . . Documents that are in the adjudication file but have not been received or offered in evidence are not part of the record of proceedings. (Cal. Code Regs., tit. 8, § 10803.)

Here, there is currently no evidence admitted into the record regarding applicant's contentions. *We have rescinded the Order taking the matter off calendar in order to make clear to*

the parties and to the PWCJ that upon return, the PWCJ should set a hearing and create a record. At the hearing, the parties will have an opportunity to raise all relevant issues and submit evidence. Specifically, as part of that process, applicant will have an opportunity to raise the issue of whether his settlement should be set aside and any other concerns he has at that time. The PWCJ can then consider the evidence and the legal arguments raised by the parties and determine how best to proceed. We make no judgment at this time as to the merits of any issue raised since without a formal record available to review, we have no ability to make this determination.

Accordingly, we dismiss applicant's Petitions as ones for reconsideration, grant applicant's Petitions as ones for removal, rescind the Order taking the March 17, 2026 hearing off calendar, and return this matter to the trial level for further proceedings consistent with this decision.

For the foregoing reasons,

IT IS ORDERED that applicant's Petition for Reconsideration, dated March 18, 2026, and applicant's Petition for Reconsideration, dated April 10, 2026, are **DISMISSED**.

IT IS ORDERED that the applicant's Petition for Removal, dated March 18, 2026, and applicant's Petition for Removal, dated April 10, 2026, are **GRANTED**.

IT IS FURTHER ORDERED as the Decision After Removal of the Workers' Compensation Appeals Board that the Order taking the matter off calendar issued on March 17, 2026 is **RESCINDED** and that this matter is **RETURNED** to the PWCJ for further proceedings consistent with this decision.

WORKERS' COMPENSATION APPEALS BOARD

/s/ CRAIG L. SNELLINGS, COMMISSIONER

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

/s/ JOSEPH V. CAPURRO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

July 9, 2026

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

**ANIL RAJ RAJVANSH
LAURA G. CHAPMAN & ASSOCIATES**

JL/abs

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