

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

EALISE CRUMB, *Applicant*

vs.

**APC TECHNOLOGY, INC.;
STATE COMPENSATION INSURANCE FUND, *Defendants***

**Adjudication Number: ADJ4500251
Los Angeles District Office**

**OPINION AND ORDER
DISMISSING PETITION FOR
DISQUALIFICATION**

Applicant, in pro per, filed a Petition for Disqualification on June 27, 2022. We have considered the allegations of the Petition for Disqualification and the contents of the WCJ's Report and Recommendation on Petition for Disqualification (Report). Based on our review of the record, and for the reasons stated in the WCJ's Report, which we adopt and incorporate herein,¹ we will dismiss the Petition for Disqualification as untimely.

If we were not dismissing the Petition for Disqualification as untimely, we would deny it on the merits for the reasons stated by the WCJ in the Report to the extent it addresses the merits of applicant's petition.

Finally, we admonish applicant for using offensive, inappropriate, and disrespectful language in the Petition for Disqualification as described in the second to last paragraph of the Report. (See Lab. Code, § 5813; see also Cal. Code Regs., tit. 8, § 10421(b)(9)(B) ([sanctionable conduct includes "using any language in any pleading or other document [...] [w]here the language or gesture impugns the integrity of the Workers' Compensation Appeals Board or its commissioners, judges, or staff"].)

¹ A copy of the WCJ's Report is copied and pasted to the bottom of this decision. This may include typos existing in the original.

For the foregoing reasons,

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

WORKERS' COMPENSATION APPEALS BOARD

/s/ PATRICIA A. GARCIA, DEPUTY COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR



KATHERINE WILLIAMS DODD, COMMISSIONER
CONCURRING NOT SIGNING

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

JULY 22, 2022

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

EALISE CRUMB, IN PRO PER
STATE COMPENSATION INSURANCE FUND

PAG/abs

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

REPORT AND RECOMMENDATION ON PETITION FOR DISQUALIFICATION

I. **INTRODUCTION**

On June 27, 2022, Applicant, Ealise Crumb, in propria persona, filed a Petition to Disqualify this Workers' Compensation Judge under Labor Code section 123.6 (a), Labor Code section 5311, Workers' Compensation Appeals Board Rules of Practice and Procedure section 10350 and Rule 10960, Code of Civil Procedure 170.6, California Code of Judicial Ethics Cannons 1 through 3, Trial Court Records Manual, Government Code section 68150 and 68151, CRC 10,855 and Declaration of Ealise Crumb. While the Petition covers a number of issues it appears the basis for disqualification pertains to missing documents from the Boards filed during the period of June 1, 2016 through August 7, 2021.

II. **FACTS**

Ealise Crumb, while employed APC Technology dba Litigation Graphics Technology, insured by State Compensation insurance Fund claims to have sustained an industrial cumulative trauma injury to her psyche resulting from harassment at work. The matter has been on calendar multiple times and numerous Petitions have been filed over the past 17 years. Prior hearings and numerous petitions not pertaining to the applicant's petition for disqualification will not be addressed.

The applicant contends the Los Angeles District Office has lost 13 of the documents she filed. They are outlined in her Petition to Stay Proceedings dated February 18, 2022, May 26, 2022 and the Petition for Disqualification. Per the applicant, included in the documents lost by the WCAB is the pre-trial conference statement (hereinafter PTCS) she filed in August 2021. Please note the case was set for Trial at the MSC in September 2021. Thus, the PTCS the applicant refers to was filed prior to matter being set for Trial and the instructions noted in the Minutes of Hearing.

This WCJ was assigned the Trial on January 10, 2022. This was the first time the matter had appeared on this Judge's calendar. At the time of Trial, the parties were advised that this WCJ could not find a joint PTCS. The parties were ordered to complete per WCJ Oesterreich orders at the MSC September 13, 2021 a joint PTCS. In the Minutes of hearing, Judge Oesterreich noted:

"STATE FUND WILL SEND THE PTCS BY OVERNIGHT MAIL OR CERTIFIED RETURN RECEIPT OR ANOTHER METHOD TO CONFIRM RECEIPT. THE PARTIES AGREE THAT THE CASE IS READY TO BE SET FOR TRIAL ON THE ISSUES INDICATED IN THE MINUTES OF HEARING OF JUDGE WATKINS AMENDED 7/21/2021 AND ON THE ISSUE OF THE MAILING OF THE DEFTS,PTCS AND LACK OF RECEIPT, PTCS MAY BE AMENDED ONLY WITH REGARD TO THE ISSUE RAISED TODAY REGARDING THE SERVICE OF THE PTCS."

SCIF had filed a PTC statement prior to the September 13, 2021 hearing, but a joint PTCS was not filed and to this day has not been filed. Each party has their own PTCS. Applicant stated, she had filed the PTCS on August 7, 2021 (Petition for Disqualification pg. 8, lines 9-13). Despite a review of the numerous Petitions filed in this matter, this WCJ was unable to locate applicant's PTCS. The applicant insisted the documents were mailed and had to be in the file. This WCJ made it clear to the applicant she wanted to insure all documents filed were received. This WCJ offered to go over every document in EAMS through the LifeSize virtual courtroom share document feature in order to determine what was missing so that the missing documents could be emailed to I&A and uploaded into the system. Applicant refused noting she was not computer savvy. After a long discussion with the parties, applicant's concerns were noted on Minutes of hearing and the matter was continued to a new trial date of February 23, 2022. The Minutes of Hearing from the Trial on January 10, 2022 note as follows:

"FileNet was missing 4 documents filed on August 7, 2021 including the PTC statement. Applicant was advised to email copies of her PTC statement to information and assistance and they could upload it into the system. Defendant's request for a ruling on their petition for vexatious litigant were deferred to the presiding judge. Applicant's objected to any hearings regarding defendant's petition as it would delay a hearing on her petition for contempt. Defendant objected to piecemeal trial on ancillary issues and requested the case-in-chief be heard together. SCIF requested a court report be present at all hearings."

The Trial on February 23, 2022 was continued per the Applicant's own request because on February 18, 2022, the applicant filed a DOR for Expedited Hearing and a Petition to Stay which had not yet been scanned into EAMS. The document was filed on a Friday before a long weekend, Monday being President's day. The MOH from February 23, 2022 note the matter was being continued and the comments included:

"Petition to Stay filed on February 18, 2022 emailed to I&A office and clerical unit. It has not yet been uploaded into EAMS. Matter is continued so that Document can be scanned and uploaded. Applicant has indicated there are 13 documents that are missing from EAMS."

At the time of Trial on April 18, 2022, Applicant indicated she wanted to proceed with an Expedited Hearing. Applicant was advised if she wanted to proceed to an Expedited Hearing, the Trial on contempt would have to be taken off calendar. Applicant was also advised that Expedited Hearings are set on limited issues and have to be approved by the Presiding Judge. Applicant's right to refile a DOR on her Petition for Contempt was reserved. Per applicant's request the matter was taken off calendar. It was noted in the Minutes of Hearing:

"Applicant wants to proceed with an expedited hearing. Applicant was informed she would have to file a DOR for EXH which would have to be reviewed by the PJ to determine if appropriate for EXH. The contempt issue is deferred. Applicant can refile a DOR on the issue of contempt after her request for expedited hearing

has been resolved. Applicant has concerns because our file is missing 13 documents that she has mailed and emailed to the court. Applicant was informed she could appear in person at any trial and hand serve this WCJ with documents, but she has indicated she lives in another state and should not have to appear and bear the cost of appearing. "

At each hearing this WCJ made sure to read what was being noted in the Minutes of Hearing to the parties, and corrections were made per the parties request prior to giving the final disposition. The applicant was always aware of what was written in the Minutes of Hearing and notations/corrections were made per her request.

On April 30, 2022, the Applicant filed a request for Judge Barbosa to provide the applicant with a copy of her April 18, 2022 Orders. There were no orders issued on April 18, 2022. The only order was to take the matter off calendar. Unclear as to what was being requested this WCJ asked that the Minutes of Hearing be served on the applicant. I&A served the MOH on the applicant per this WCJ request.

On May 13, 2022, the applicant filed a request for a detailed written order of the hearing conducted by Judge Penny Barbosa on April 18, 2022. Again, there were no Orders issued at the time of Trial. Information was documented on the Minutes of Hearing regarding what was discussed, but there were no orders issued and no testimony was taken. The matter was taken off calendar per the applicant's own request. The Minutes of Hearing were served on defendant by my secretary on May 4, 2022. Defendant timely served the MOH on May 5, 2022 despite applicant's contentions otherwise.

On May 31, 2022, SCIF filed a DOR on discovery, listing as issues Petition to Compel applicant to a PQME appointment and their Petition for Vexatious Litigation. On June 1, 2022, Applicant filed a DOR for Expedited Hearing pertaining to her 13 missing documents including a Petition to Stay Proceedings. The matter is currently set for an MSC on July 7, 2022 before this WCJ on all issues raised in both defendant's and applicant's DOR per the Presiding Judge.

Applicant filed her Petition for Disqualification consisting of 215 pages dated June 27, 2022, uploaded in EAMS on June 28, 2022. Requesting this WCJ be removed from her case. The July 7, 2022 hearing has been continued before the Presiding Judge. The parties were informed they could raise their issues including defendant's Petition for Vexatious Litigation and Applicant's Petition to Stay.

III. **DISCUSSION**

It appears the applicant's Petition for Disqualification may be moot as this WCJ will be transferring to another district office and as such, and having never taken testimony, Ms. Crumb's case will be reassigned to another Judge in Los Angeles. However, based on the allegations raised in the Petition, this WCJ felt it was important to issue a detailed response.

This WCJ has spent a great deal of time with Ms. Crumb and has tried to accommodate and assist the applicant in moving her case forward. However, the statements made by the applicant in her petition about this WCJ are simple untrue and not supported by the record.

Appeals Board Rule 10960 addresses Petitions for Disqualification of a WCJ and provides in full:

"Proceedings to disqualify a workers' compensation judge under Labor Code section 5311 shall be initiated by the filing of a petition for disqualification supported by an affidavit or declaration under penalty of perjury stating in detail facts establishing one or more of the grounds for disqualification specified in section 641 of the Code of Civil Procedure. The petition to disqualify a workers' compensation judge and any answer shall be verified upon oath in the manner required for verified pleadings in courts of record."

"If the workers' compensation judge assigned to hear the matter and the grounds for disqualification are known, the petition for disqualification shall be filed not more than 10 days after service of notice of hearing or after grounds for disqualification are known.

In turn, Labor Code section 5311 provides that:

"Any party to the proceeding may object to the reference of the proceeding to a particular workers' compensation judge upon any one or more of the grounds specified in section 641 of the Code of Civil Procedure and the objection shall be heard and disposed of by the appeals board. Affidavits may be read and witnesses examined as to the objections. (Lab. Code, § 5311.)

Finally, section 641 of the Code of Civil Procedure provides that;

"A party may object to the appointment of any person as referee, on one or more of the following grounds:

- (a) A want of any of the qualifications prescribed by statute to render a person competent as a juror, except a requirement of residence within a particular county in the state.
- (b) Consanguinity or affinity, within the third degree, to either party, or to an officer of a corporation which is a party, or to any judge of the court in which the appointment shall be made.
- (c) Standing in the relation of guardian and ward, conservator and conservatee, master and servant, employer and clerk, or principal and agent, to either party; or being a member of the family of either party; or a partner in business with either party; or security on any bond or obligation for either party.
- (d) Having served as a juror or been a witness on any trial between the same parties.
- (e) Interest on the part of the person in the event of the action, or in the main question involved in the action.

- (f) Having formed or expressed an unqualified opinion or belief as to the merits of the action.
- (§) The existence of a state of mind in the potential referee evincing enmity against or bias toward either party." (Civ. Proc. Code, § 641.)

While allegations of bias and the appearance of bias by WCJs should be taken seriously, the applicant has not met her burden to support her allegations. This WCJ has not made any determinations regarding any substantive matters pertaining to this matter. The case has been continued or taken off calendar per the applicant's own request. Without evidence, the allegations are just that, and no more. Applicant's characterizations of this WCJ's actions do not establish enmity, prejudice, or bias as a judge. Applicant therefore has not met her burden of proof by a preponderance of evidence to establish grounds for disqualification. (Lab. Code, § 5705.) A party's unilateral and subjective perception of bias does not afford a basis for disqualification. (*Haas v. County of San Bernardino* (2002) 27 Cal.4th 1017, 1034.) Accordingly, request the Petition be dismissed and if not dismissed it should be denied.

APPLICANT'S PETITION FOR DISQUALIFICATION WAS FILED UNTIMELY AND SHOULD BE DISMISSED.

Rule 10960 requires a Petition for Disqualification be filed no more than 10 days after service of notice of hearing or after grounds for disqualifications are known. Here the applicant's petition should be dismissed as it was not filed timely.

Ms. Crumb asserts this WCJ has violated various rules and canons for failing to maintain court records. The applicant contends the Los Angeles District Office has lost 13 of her documents filed as outlined in her Petition to Stay Proceedings in particular the petitions dated February 18, 2022 and May 26, 2022 and most recently in her Petition for Disqualification. Per the applicant, included in the documents lost by the WCAB is the PTCS she filed in August 2021.

In her Petition for Disqualification (Page 7, lines 12-19), Applicant indicates, "Judge Barbosa had no clue that the Applicant's Pre-Trial Conference Statement wasn't scanned and filed in the official court record even though the Applicant mailed her PTCS to the court on August 7, 2021. She should have known prior to January 10, 2022, the date of the hearing, that the Applicant's PTCS had not been scanned and filed in the official court record. Had Judge Barbosa reviewed all of the legal pleadings pertaining to the Contempt Petition, she would have seen that the court personnel had not scanned and filed the Applicant's PTCS, as well as Addendums that had also been sent to the court for filing in support of her Contempt Petition that the court's personnel did not scan and file into the official court record."

The parties at the time of the hearing were informed that this WCJ could not locate a joint PTCS or a PTCS filed by the applicant. This WCJ will not contact a party before a hearing to inquire about a PTCS. This WCJ would not have known until the applicant informed her that the PTCS had been mailed in August the year before.

Applicant contentions of missing documents from the Boards file were raised at the time of trial on January 10, 2022. Applicant's case was set before this WCJ in February and April of 2022. Applicant did not voice any objection to this WCJ presiding over either of these trials.

Applicant's case was placed back on calendar for an MSC on July 7, 2022. Notice of the hearing issued on June 6, 2022. Applicant's Petition for Disqualification is untimely pursuant to Rule 10960. "If the workers' compensation judge assigned to hear the matter and the grounds for disqualification are known, the petition for disqualification *shall* be filed not more than 10 days after service of notice of hearing or after grounds for disqualification are known." (*Emphasis added*)

The applicant's claim of missing document was raised in January of 2022. She did not file a Petition for Disqualification. The matter was set in February and April 2022 for Trial. Applicant did not object. Applicant did not issue an objection to this WCJ within 10 days of the last notice of hearing issued on June 6, 2022. Applicant's Petition was filed on June 27, 2022. Applicant has 10 days from the date of the alleged offense to file a Petition for Disqualification. This was not done. Thus, the Petition for Disqualification is untimely and should be dismissed.

APPLICANT HAS VIOLATED C R 10490(d) and CR 10945.

Applicant has violated CCR I 0940(d) which limits a petition for disqualification to 25 pages. The applicant has filed a 215 pages.

In addition, responding to this Petition has been difficult because it is hard to determine what exactly is being alleged and what would constitute grounds for disqualifications. Rule 10945 requires that "Every petition for reconsideration, removal or disqualification shall fairly state all of the material evidence relative to the point or points at issue. Each contention shall be separately stated and clearly set forth. A failure to fairly state all of the material evidence may be a basis for denying the petition.

. . . Copies of documents that have already been received in evidence or that have already been made part of the adjudication file shall not be attached or filed as exhibits to petitions for reconsideration, removal, or disqualification or answers. Documents attached in violation of this rule may be detached from the petition or answer and discarded. (2)A document that is not part of the adjudication file shall not be attached to or filed with a petition for reconsideration or answer unless a ground for the petition for reconsideration is newly discovered evidence.(3) A document shall not be attached to or filed with a petition for removal or disqualification or answer unless the document is not part of the adjudication file and is relevant to a petition for removal or disqualification."

Here the applicant will cite a rule or cannon, but does not set forth how it was violated or why it would be grounds for disqualification. The applicant has also included exhibits which are already part of the board file and provide no relevant information regarding why this WCJ should be disqualified. Thus, it is recommended the Petition be denied.

APPLICANT'S PETITION FOR DISQUALIFICATION FOCUSES ON MISSING DOCUMENTS OBTAINED PRIOR TO THIS WCJ BEING ASSIGNED THE TRIAL AND IS NOT GROUNDS FOR DISQUALIFICATION.

Applicant's petition focuses on several missing documents some of which were raised at the time of Trial on January 10, 2022. Applicant stated she had four missing documents. Applicant's concerns were noted in the Minutes of Hearing. This WCJ made it clear to the applicant it was her goal to insure all the missing documents were obtained and placed into FileNet. Since requesting a copy of the file on two separate occasions under PRA, the applicant now claims there are 13 missing documents. Again, the documents missing were served on the board per the applicant prior to the Trial on January 10, 2022 and were never in the possession of this WCJ.

The applicant provides a list of the following documents that were not in EAMS:

1. Petition for Discovery Order dated June 1, 2016.
2. Petition for Discovery Order to Compel Defendant ... dated June 1, 2016.
3. Petition for Cost for Evaluation dated April 22, 2019
4. Notarized statement and declaration of applicant dated October 12, 2017
5. Petition to Court to Remove State Compensation Insurance Fund ... dated December 22, 2020
6. Applicant's Request for Copy of detailed written order/MOH dated December 22, 2020
7. Applicant's Request to the Court for revised MOH dated July 27, 2021
8. Applicant's response to Defendant objection to her request to remove from calendar ... dated September 11, 2020.
9. PTC Statement with attachments mailed August 7, 2021
10. Applicant's Addendum to her Contempt Petition dated September 17, 2019 mailed on August 7, 2021
11. Applicant's Addendum to her Contempt Petition mailed August 7, 2021
12. Applicant objection o defendant's Pet for substitution of insurer ... mailed August 7, 2021
13. Request for Production of Documents mailed August 7, 2021.

In review of the list of documents stated, the two Petition dated June 1, 2016 are in EAMS along with two other Petitions filed with the same date by the applicant. Had the applicant been receptive to a review of all the documents in EAMS with WCJ she would have known that not all the documents she had listed are missing.

Some of the documents missing the applicant cites as a basis for disqualification date back to 2016. The matter proceeded to trial before Judge Watkins on September 12, 2019 on discovery issues. It is unclear why the applicant did not raise the missing documents at that time.

This WCJ attempted to gather all information from the applicant to insure the record was complete, but applicant refused. Applicant was made aware that the WCAB is holding in person hearings and she could physically appear and hand deliver documents to this WCJ if she was concerned about missing records. This would alleviate any fear of documents being lost and not scanned. Applicant refused. Applicant indicated she could not appear in person because she lives out of state and could not bear the cost of appearing. The WCJ has discretion to order hearings to be held

electronically per CCR 10745, but is not required to do so. If there is a concern regarding missing documents the best method to make sure they are not lost is to provide them directly to the Judge to be scanned into the system. However, taking into consideration the applicant's situation, the applicant was not ordered to appear in person.

Applicant was informed she could email the documents to I&A which she has done and continues to do, but she refused. Applicant has cited numerous documents but will not provide copies via email, but rather insist the board make a notation that the documents were lost.

THERE HAS BEEN NO PROOF OFFERED TO SUPPORT ANY CLAIMS OF SABATOGUE.

When documents are received they are scanned into FileNet or provided directly to the Trial Judge. Here the documents served on August 7, 2021 would have been scanned into FileNet because the Trial Judge had retired and the case was not reassigned to a new Trial Judge. If the documents were not in the system there is nowhere else to look. The Los Angeles District Office is the second busiest board in the state. There are numerous pieces of mail processed daily. Mail clerks do not review files or interact with parties. They have no personal knowledge regarding claims, thus claims of sabotage are unfounded. Furthermore, applicant was informed any complaints regarding handling of documents would need to be addressed by the Presiding Judge as this WCJ does not supervise the clerks.

PARTIES ARE REQUIRED TO FILE A JOINT PTC STATEMENT BY THE CLOSE OF THE MSC.

Title 8 of California Code of Regulations section 10759 (b) states: "The parties **shall** meet and confer prior to the mandatory settlement conference and, absent resolution of the dispute(s), the parties **shall** complete a **joint** Pre-Trial Conference Statement setting forth the issues and stipulations for trial, witnesses, and a list of exhibits **by the close of the mandatory settlement conference**. A defendant that has paid benefits shall have a current computer printout of benefits paid available for inspection at every mandatory settlement conference." (*Emphasis added*)

A joint PTC statement was not filed prior to Trial on January 10, 2022 and as of the last trial setting in April, a joint PTCS still had not been completed or filed. Thus, the parties even if they wanted to proceed to Trial were not ready.

Applicant is correct that the contempt petition was not read prior to Trial on January 10, 2022 because without the PTCS it is unclear as to what issues were being raised, and with numerous Petitions filed unfortunately this WCJ's calendar and workload does not permit for review of them all. In addition, until the record is open and the parties have a right to object to documents provided, this WCJ will not review documents until they are part of the record, thus to avoid any potential claim of bias.

Applicant statement on page 22, line 17-22, "Judge Barbosa **Lied** to the Applicant about when the Applicant's PTCS was uploaded. How is it possible that the January 21, 2022 date could appear on EAMS, according to Judge Barbosa that she was reviewing on April 18, 2022, but not appear on the CD sent to Applicant by PRA Coordinator Opris on March 7, 2022." (*Emphasis added*)

Applicant goes on to accuse this WCJ of covering-up (page 23, lines 12-18) for the incompetence of the court personnel.

A review of EAMS clearly shows applicant's PTC statement was uploaded in FileNet on January 21, 2022. Applicant was provided the EAMS document ID number 75096775. This WCJ has nothing to do with information provided under PRA. Thus, any claims that documents were not provided were not a result of any action by this WCJ.

ADVISING THE APPLICANT WHAT ISSUES ARE APPROPRIATE FOR AN EXPEDITED HEARING DOES NOT CONSTITUTE GROUNDS FOR DISQUALIFICATION.

In reviewing the Petition there are statements made such as that on page 5, lines 6 to 8, Applicant notes: "She circumvented the laws and rules governing court records management when she said during the hearing on April 18, 2022 that missing information from a file is not considered an expedited issue." However, the petition does not note which law was circumvented.

Advising parties of what constitute an Expedited Hearing is well within this WCJ authority, and thus no laws or rules were circumvented. Title 8 of California Code of Regulations section 10782, states:

"(a) Where injury to any part or parts of the body is accepted as compensable by the employer, a party is entitled to an expedited hearing and decision upon the filing of an Application for Adjudication of Claim and a Declaration of Readiness to Proceed pursuant to rule 10625 establishing a bona fide, good faith dispute pursuant to Labor Code section 5502(b).

(b) An expedited hearing may be set upon request where injury to any part or parts of the body is accepted as compensable by the employer and the issues include medical treatment or temporary disability for a disputed body part or parts.

(c) A workers' compensation judge assigned to a case may re-designate the expedited hearing as a mandatory settlement conference, receive a Pre-Trial Conference Statement pursuant to Labor Code section 5502, close discovery and schedule the case for trial on the issues presented, if the workers' compensation judge determines that the case is not appropriate for expedited determination.

(d) Grounds for the re-designation of an expedited hearing include, but are not limited to, cases where the direct and cross-examination of the applicant will be prolonged, or where there are multiple witnesses who will offer extensive testimony.

(e) The parties are expected to submit for decision all matters properly in issue at a single trial and to produce all necessary evidence, including witnesses, documents, medical reports, payroll statements and all other matters considered essential in the proof of a party's claim or defense."

THE ONLY ORDERS ISSUED BY THIS WCJ WERE TO CONTINUE OR TAKE THE HEARINGS OFF CALENDAR PER THE APPLICANT'S OWN REQUEST.

Applicant goes into detail about the April 18, 2022 orders, but there were no orders issued at the hearing other than to take the hearing off calendar so that the applicant could file a DOR for Expedited Hearing. A brief summary of the long conversation with the applicant was noted in the Minutes of Hearing. It was read to the applicant and corrected per the applicant's request. Thus, when the applicant requested a detailed written order, this WCJ did not feel that amending the notes on the Minutes of Hearing would be appropriate as it would not accurately reflect what transpired.

Each time the matter has been taken off calendar it was at the applicant's request. Applicant cannot proceed to trial on a contempt petition against the defendant when she has stated that all the documents she needs to proceed on that issue are not in FileNet, but refuse to provide them. She wants a stay order for documents she claims are destroyed so they can be located, but if they are destroyed as she claims they will never be located. She wants her Petition for a Stay Order addressed prior to proceeding on her contempt petition. The applicant is delaying the matter by failing to provide via email the missing documents.

STATEMENTS MADE BY PARTIES ON THE AT&T LINE.

In regards to comments made during hearings, it should be noted that all hearings were held via telephone. This WCJ doesn't know or recognize all voices. Applicant has cited two cases in which comments were made. One she claims someone said "good job." This WCJ did not hear this comment. The second comment was made referring to this WCJ's patience and never made reference to the applicant. This statement was heard and this WCJ advised the person who made the comment to stop and they did. There were no additional discussion or comments made.

APPLICANT SHOULD BE ADMONISHED FOR COMMENTS DIRECTED TOW ARDS THE WCJ.

Applicant's allegations against the WCJ are not accurate or supported by facts. Applicant's Petition challenges the honesty of this WCJ by stating she lied and "covered-up" for incompetent staff are unfounded and lack any offer of proof. This WCJ has not lied nor covered anything up. Applicant's scandalous charge boards on grounds for contempt. It is recommended that the applicant be admonished and reminded that such behavior could result in sanctions.

IV.
RECOMMENDATIONS

It is recommended that the Petition for Reconsideration be dismissed, and if not dismissed, it is recommended it be denied. It is also recommended that the applicant be admonished for impugning the integrity of this WCJ.

DATE: 07/08/2022

Penny Barbosa
WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE