

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

ROLANDO MARROQUIN, *Applicant*

vs.

**LOS ANGELES COUNTY METROPOLITAN
TRANSPORTATION AUTHORITY, permissibly self-insured,
*Defendants***

**Adjudication Numbers: ADJ2471912; ADJ894829; ADJ2127600
Van Nuys District Office**

**OPINION AND ORDER
DENYING PETITION FOR
RECONSIDERATION**

We have considered the allegations of the Petition for Reconsideration and the contents of the report of the workers' compensation administrative law judge (WCJ) with respect thereto.¹ Based on our review of the record, and for the reasons stated in the WCJ's report, which we adopt and incorporate, and for the reasons stated below, we will deny reconsideration.

As noted by the WCJ in the Report, applicant does not challenge the February 8, 2024 Joint Findings of Fact and Order and the petition is skeletal and therefore subject to dismissal or denial pursuant to WCAB Rule 10972. Moreover, even if we treated the petition as one challenging the February 8, 2024 Joint Findings of Fact and Order, we would deny it for the reasons stated in the WCJ's Report. The finding that applicant is a vexatious litigant is proper on this record.

WCAB Rule 10430 states in its entirety as follows:

- (a) For purposes of this rule, "vexatious litigant" means:
- (1) A party who, while acting in propria persona in proceedings before the Workers' Compensation Appeals Board, repeatedly relitigates, or attempts to relitigate, an issue of law or fact that has been finally determined against that party by the Workers' Compensation Appeals Board or by an appellate court;
 - (2) A party who, while acting in propria persona in proceedings before the Workers' Compensation Appeals Board, repeatedly files unmeritorious motions,

¹ Commissioner Sweeney, who was on the panel that issued a prior decision in this matter, no longer serves on the Appeals Board. Another panelist was appointed in her place.

pleadings or other papers, repeatedly conducts or attempts to conduct unnecessary discovery, or repeatedly engages in other tactics that are in bad faith, are frivolous or are solely intended to cause harassment or unnecessary delay; or

(3) A party who has previously been declared to be a vexatious litigant by any state or federal court of record in any action or proceeding based upon the same or substantially similar facts, transaction(s) or occurrence(s) that are the subject, in whole or in substantial part, of the party's workers' compensation case.

For purposes of this rule, the phrase "finally determined" shall mean:

(i) That all appeals have been exhausted or the time for seeking appellate review has expired; and

(ii) The time for reopening under Labor Code sections 5410 or 5803 and 5804 has passed or, although the time for reopening under those sections has not passed, there is no good faith and non-frivolous basis for reopening.

(b) Upon the petition of a party, or upon the motion of any workers' compensation judge or the Appeals Board, a presiding workers' compensation judge of any district office having venue or the Appeals Board may declare a party to be a vexatious litigant.

(c) No party shall be declared a vexatious litigant without being given notice and an opportunity to be heard. If a hearing is requested, the presiding workers' compensation judge or the Appeals Board, in their discretion, either may take and consider both oral and documentary evidence or may take and consider solely documentary evidence, including affidavits or other written declarations of fact made under penalty of perjury.

(d) If a party is declared to be a vexatious litigant, a presiding workers' compensation judge or the Appeals Board may enter a "prefiling order," i.e., an order which prohibits the vexatious litigant from filing, in propria persona, any Application for Adjudication of Claim, Declaration of Readiness to Proceed, petition or other request for action by the Workers' Compensation Appeals Board without first obtaining leave of the presiding workers' compensation judge of the district office where the request for action is proposed to be filed or, if the matter is pending before the Appeals Board on a petition for reconsideration, removal or disqualification, without first obtaining leave from the Appeals Board. For purposes of this rule, a "petition" shall include, but not be limited to, a petition to reopen under Labor Code sections 5410, 5803 and 5804, a petition to enforce a medical treatment award, a penalty petition or any other petition seeking to enforce or expand the vexatious litigant's previously determined rights.

(e) If a vexatious litigant proposes to file, in propria persona, any Application for Adjudication of Claim, Declaration of Readiness to Proceed, petition or other request for action by the Workers' Compensation Appeals Board, the request for action shall be conditionally filed. Thereafter, the presiding workers'

compensation judge, or the Appeals Board if the petition is for reconsideration, removal or disqualification, shall deem the request for action to have been properly filed only if it appears that the request for action has not been filed in violation of subdivision (a). In determining whether the vexatious litigant's request for action has not been filed in violation of subdivision (a), the presiding workers' compensation judge, or the Appeals Board, shall consider the contents of the request for action and the Workers' Compensation Appeals Board's existing record of proceedings, as well as any other documentation that, in its discretion, the presiding workers' compensation judge or the Appeals Board asks to be submitted. Among the factors that the presiding workers' compensation judge or the Appeals Board may consider is whether there has been a significant change in circumstances (such as new or newly discovered evidence or a change in the law) that might materially affect an issue of fact or law that was previously finally determined against the vexatious litigant.

(f) If any in propria persona Application for Adjudication of Claim, Declaration of Readiness to proceed, petition or other request for action by the Workers' Compensation Appeals Board from a vexatious litigant subject to a prefiling order is inadvertently accepted for filing (other than conditional filing in accordance with subdivision (e) above), then any other party may file (and shall concurrently serve on the vexatious litigant and any other affected parties) a notice stating that the request for action is being submitted by a vexatious litigant subject to a prefiling order as set forth in subdivision (d). The filing of the notice shall automatically stay the request for action until it is determined, in accordance with subdivision (e), whether the request for action should be deemed to have been properly filed.

(g) A copy of any prefiling order issued by a presiding workers' compensation judge or by the Appeals Board shall be submitted to the Secretary of the Appeals Board, who shall maintain a record of vexatious litigants subject to those prefiling orders and who shall annually disseminate a list of those persons to all presiding workers' compensation judges.

(Cal. Code Regs., tit. 8, § 10430.)

For the foregoing reasons,

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

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

/s/ JOSEPH V. CAPURRO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

April 22, 2024

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

**ROLANDO MARROQUIN
LEWIS, BRISBOIS, BISGAARD & SMITH**

PAG/abs

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

**REPORT AND RECOMMENDATION
ON PETITION FOR RECONSIDERATION**

INTRODUCTION

This matter proceeded to trial on the issue of whether the applicant should be declared a vexatious litigant pursuant to 8 Cal. Code Reg. Section 10430. Findings of Fact and Order issued on 2/7/2024 finding that Rolando Marroquin meets the definition of a vexatious litigant and was found to be a vexatious litigant. Rolando Marroquin has filed a verified Petition for Reconsideration dated 2/16/2024 challenging a decision dated 11/16/2013. If a decision had been issued on 11/16/2013, this Petition for Reconsideration would be untimely. The undersigned will treat the applicant's Petition for Reconsideration as a timely petition challenging the 2/7/2014 Joint Findings of Fact and Order finding the applicant to be a vexatious litigant subject to pre-filing Orders.

II

FACTS

Rolando Marroquin filed three claims for injury and a claim for discrimination under Labor Code Section 132a. The matter proceeded to trial on December 11, 2014, and the claims were subsequently resolved on May 12, 2015, by four separate Compromise and Release agreements. More than four years after the Orders Approving Compromise and Release issued, the applicant filed a DOR requesting a hearing on the issue of compensation rate, permanent disability, future medical treatment, temporary disability, self-procured medical treatment, discovery and other. The applicant also asserted that false and fraudulent material was presented to the court and filed a Petition to Reopen. An MSC was scheduled, and the matter was set for trial on the issue of whether good cause exists to set aside the four Compromise and Release agreements dated July 25, 2015. On December 10, 2019, Judge Rasmusson issued a Joint Findings and Order finding that the applicant did not sustain his burden of proof to establish good cause to set aside the four compromise and release agreements. The applicant filed a Petition for Reconsideration. The WCAB affirmed the December 10, 2019, Joint Findings and Order and granted reconsideration to amend for typographical error. Applicant's Petition for Writ of Review was denied on April 27, 2020.

Since April 27, 2020, the applicant has filed several DORs and several hearings have been conducted all addressing the same issue. Defendant filed a Petition to have applicant declared a vexatious litigant. The matter proceeded to trial on the issue of whether the applicant should be declared a vexatious litigant. The court issued a Joint Findings and Order on February 7, 2024 and served on February 8th finding the applicant to be a vexatious litigant subject to the pre-filing Orders.

III DISCUSSION

The applicant has exhausted all his remedies with respect to the settlement of his claims including the settlement of his claim for discrimination under Labor Code Section 132a. The issue of whether there was good cause to set aside the settlements based on fraud, mistake, duress, undue influence, or procedural irregularities was addressed by Judge Rasmusson. He found no basis to set aside the settlements. The applicant filed a Petition for Reconsideration. The WCAB adopted and incorporated the judges Report and Recommendation and granted solely to amend the Joint Findings and Order as recommended by the WCJ to correct and clarify the record. Applicant's Petition for Writ of Review was denied.

Although the issues have been finally determined against the applicant, he has continued to file several DOR's and filed correspondence attempting to raise the same issues that have been previously litigated. The applicant filed a DOR dated August 2, 2021 (EAMS ID #74533262) raising the issue of compensation rate, permanent disability, medical treatment, temporary disability, AOE/COE, self-procured medical treatment, and discovery, Under comments he claims he wants to resolve the matter and claims defendant presented false material statement for purpose of denying workers compensation benefits, challenges the compromise and release, the Joint Findings and Order dated 12/10/2019, and the Report and Recommendation dated January 6, 2020. At the October 13, 2021, hearing, Judge Broussard documented the MOH (EAMS ID #74787733) stating in part that the applicant wanted to litigate the issue again and have a different judge hear the case. The applicant was advised that he had exhausted all his appeal remedies in workers' compensation.

On August 15, 2022, the applicant filed another DOR (EAMS ID #75822372) again raising the issues of compensation rate, permanent disability, future medical treatment, temporary disability, AOE/COE, self-procured medical treatment, and discovery. Under comments he again raises the issue of fraudulent material statements to deny benefits, the validity of the compromise and releases. At the November 1, 2022, hearing (EAMS ID# 76126220) Judge Kelly noted that the applicant wanted a trial to reverse the settlement. He further notes that both the Recon and the Writ were denied.

Mr. Marroquin has continued to raise the same litigated issues at several subsequent hearings. Based on the applicant's numerous attempts to relitigate the same issues that have been fully determined against him, the matter was set for conference and then trial on the issue of whether the applicant should be declared a vexatious litigant. At trial the applicant was given the opportunity to present witnesses, evidence and to testify on his own behalf. Before the trial began the parties discussed at length the issues. Mr. Marroquin again raised the issue that he did not settle his cases and that there was fraud. He testified on the record that he believed there was fraud and that is why he should not be declared a vexatious litigant (MOH/SOE page 4 lines 15-16).

Contrary to applicants allegations he has had a full trial, opportunity to present evidence, review on appeal, review on writ and is once again attempting to relitigate the same issues which is yet another example of supporting the finding of him being a vexatious litigant.

Based on a review of the record the undersigned issued a February 7, 2024 Joint Findings and Order finding that the applicant, acting in propria persona, meets the definition of a vexatious litigant as defined in 8 Cal. Code Reg. Section 10430(a)(1). The applicants Petition for Reconsideration refers to a November 16, 2023, decision, however, no such decision exists. Therefore, the undersigned is treating the applicants Petition for Reconsideration as an appeal from the February 7, 2024 Joint Findings and Order.

The Petition for Reconsideration is unsupported by any specific references to the record or to any principles of law involved and should be denied as a skeletal petition under California Code of Regulations Section 10972.

IV

RECOMMENDATION

It is recommended that the Petition for Reconsideration be denied.

SHARON L. VELZY
Workers' Compensation Judge

Date: 3/7/2024