WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

ADANTONIO RIVERA, ***Applicant***

vs.

TARLTON & SONS, INC.; STARR INDEMNITY & LIABILITY INS. CO., administered by GALLAGHER BASSETT SERVICES, INC., ***Defendants***

Adjudication Number: ADJ10648161
Goleta District Office

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

Applicant, in pro per, appears to seek reconsideration of the Order taking the matter off calendar issued by the presiding workers' compensation administrative law judge (PWCJ) on June 22, 2026.

Applicant contends, in essence, that the PWCJ erred by taking the trial off calendar as he was not given a fair opportunity to review and respond to evidence and information the PWCJ relied on in reaching the decision. Applicant further contends that he was not fully provided with the relevant payment records and accounting information.

We have not received an Answer from defendant.

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

We have considered the allegations of the Petition and the contents of the Report. Based on our review of the record and for the reasons discussed below, we will dismiss applicant's Petition for Reconsideration, and treat the Petition as one seeking removal, and deny the Petition.

DISCUSSION

I.

Petitions for reconsideration filed on or after July 14, 2026 are subject to Labor Code section 5909[1], which states 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 in Events 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 August 4, 2026 and 60 days from the date of transmission is Saturday, October 3, 2026. The next business day that is 60 days from the date of transmission is Monday, October 5, 2026. (See Cal. Code Regs., tit. 8, § 10600(b).)[2] This decision is issued by or on Monday, October 5, 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

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[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.

act on a petition. Section 5909(b)(2) provides that service of the Report shall be notice of transmission.

Here, according to the proof of service for the Report, the Report was served on August 4, 2026, and the case was transmitted to the Appeals Board on August 4, 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 August 4, 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, although applicant contends that he seeks reconsideration of a findings and order, the PWCJ did not issue a decision on the merits. Thus, it appears that applicant is, in essence, seeking reconsideration of the Order issued by the PWCJ on June 22, 2026, wherein the PWCJ took the matter off calendar. The PWCJ's decision solely to take a hearing off calendar 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.

Applicant asserts that defendant has not completely provided him with the relevant payment records and accounting information that he has requested. (Petition, at p. 2.) However, per the Minutes of Hearing and Summary of Evidence (MOH/SOH) of the trial on June 22, 2026, defendant's claims supervisor, Lisa Hampton, was "going to provide the applicant with a printout of all the monies paid, not just monies paid to him." (MOH/SOE, June 22, 2026, at p. 3.) Once the printout is provided to applicant, applicant should have the information he is seeking. However, if applicant still has not received the information he needs or has any other related concerns, we recommend that he consult with the Information and Assistance Officer at the district office, and if appropriate, he can file a new Declaration of Readiness for a hearing to raise and discuss any relevant issues with the PWCJ at that time.

For the foregoing reasons,

IT IS ORDERED applicant's Petition for Reconsideration of the Order issued by the PWCJ on June 22, 2026 is **DISMISSED** and the Petition for Removal is **DENIED.**

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ LISA A. SUSSMAN, DEPUTY COMMISSIONER

/s/ KATHERINE A. ZALEWSKI, CHAIR

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

October 5, 2026

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

ADANTONIO RIVERA
TESTAN LAW

JL/abs

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