

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

CARLOS VALENCIA ORTIZ, *Applicant*

vs.

**ADVANCED MANUFACTURER DEVELOPMENT; NATIONAL CASUALTY
COMPANY, administered by ILLINOIS MIDWEST SPRINGFIELD, *Defendants***

**Adjudication Number: ADJ17943105
Santa Rosa District Office**

**OPINION AND ORDERS DISMISSING
PETITIONS FOR RECONSIDERATION AND
DENYING PETITIONS FOR REMOVAL**

Applicant filed two Petitions for Reconsideration, one on May 6, 2026 and one on June 8, 2026, apparently in response to two separate Orders Denying Petition for Change of Venue issued on April 9, 2026 and on May 7, 2026 by the presiding workers' compensation administrative law judge (PWCJ).

Applicant asserts in both Petitions that he disagrees with the decisions of the WCJ at the Santa Rosa District Office and that he wants his case transferred to the Oakland District Office.

We have not received an answer from defendant. The PWCJ filed a Report and Recommendation (Report) recommending that the Petition for Reconsideration be dismissed, or in the alternative if treated as a Petition for Removal, it be denied.

We have considered the allegations of the Petition and the contents of the PWCJ's Report with respect thereto. Based on our review of the record, and for the reasons discussed below, we will dismiss the Petition for Reconsiderations, treat the Petitions as ones for removal and deny both Petitions.

BACKGROUND

We will briefly review the relevant facts.

Applicant sustained injury to his left ankle while employed by defendant as a production worker on June 7, 2023.

Applicant filed two petitions for change of venue on March 3, 2026 and April 27, 2026, requesting that venue be changed to the Oakland District Office.

On April 9, 2026, and May 7, 2026, the PWCJ issued the Orders.

I.

Former Labor Code section¹ 5909 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 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 first transmitted to the Appeals Board on May 20, 2026, and 60 days from the date of transmission is Sunday, July 19, 2026. The next business day that is 60 days from the date of transmission is Monday, July 20, 2026. (See Cal. Code Regs., tit. 8, § 10600(b).)² This decision is issued by or on Monday, July 20, 2026, so that we have timely acted on the Petitions 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 statutory references are to the Labor Code unless otherwise stated.

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 be notice of transmission.

Here, according to the proof of service for the Report by the PWCJ, the Report was served on May 20, 2026, and the case was first transmitted to the Appeals Board on May 20, 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 May 20, 2026.

II.

There are 25 days allowed within which to file a petition for reconsideration from a “final” decision that has been served by mail upon an address in California, and 30 days when one of the parties is out of state. (Lab. Code, §§ 5900(a), 5903; Cal. Code Regs., tit. 8, § 10605(a)(1).) This time limit is extended to the next business day if the last day for filing falls on a weekend or holiday. (Cal. Code Regs., tit. 8, § 10600.) To be timely, a petition for reconsideration must be filed with (i.e., received by) the WCAB within the time allowed; proof that the petition was mailed (posted) within that period is insufficient. (Cal. Code Regs., tit. 8, §§ 10940(a), 10615(b).)

This time limit is jurisdictional and, therefore, the Appeals Board has no authority to consider or act upon an untimely petition for reconsideration. (*Maranian v. Workers’ Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1076 [65 Cal.Comp.Cases 650]; *Rymer v. Hagler* (1989) 211 Cal.App.3d 1171, 1182; *Scott v. Workers’ Comp. Appeals Bd.* (1981) 122 Cal.App.3d 979, 984 [46 Cal.Comp.Cases 1008]; *U.S. Pipe & Foundry Co. v. I.A.C. (Hinojoza)* (1962) 201 Cal.App.2d 545, 549 [27 Cal.Comp.Cases 73].)

To the extent that applicant’s Petitions appear to challenge the Opinion and Order Denying Petition for Reconsideration that issued on January 12, 2026 by the Workers’ Compensation Appeals Board and the Findings and Award that issued on October 23, 2025 by a WCJ, the time limit to challenge those decisions has long expired.

As discussed below, we dismiss the Petitions because they challenge current Orders that are non-final, but we note that to the extent that the Petitions challenge the January 12, 2026 and the October 23, 2025 decisions, the Petitions are also subject to dismissal as untimely.

III.

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 this matter, the April 9, 2026 and May 7, 2026 Orders are interlocutory decisions. Accordingly, the Petitions will be dismissed to the extent they seek reconsideration, and we will review the Petitions as ones for removal.

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, based upon the PWCI’s analysis of the merits of petitioner’s arguments, we are not persuaded that significant prejudice or irreparable harm will result if removal is denied and/or that reconsideration will not be an adequate remedy if the matter ultimately proceeds to a final decision adverse to petitioner. Thus, we deny the Petitions as ones for Removal.

III.

Finally, applicant also lists the date of November 13, 2025 on the Petitions. As discussed in the PWCJ's Report:

Judge Jason Schaumberg authored a Report and Recommendation dated November 13, 2025 in response to Applicant's Petition for Reconsideration. As a Report and Recommendation is not a final judicial order, Reconsideration is not an appropriate remedy.

(Report, at p. 3.)

Accordingly, we dismiss the two Petitions for Reconsideration and deny the two Petitions as ones for Removal.

For the foregoing reasons,

IT IS ORDERED that applicant's Petition for Reconsideration filed on May 6, 2026 is **DISMISSED**.

IT IS FURTHER ORDERED that applicant's Petition for Reconsideration filed on June 8, 2026 is **DISMISSED**.

IT IS FURTHER ORDERED that applicant's Petition for Removal of the Order Denying Petition for Change of Venue issued on April 9, 2026 by the PWCJ is **DENIED**.

IT IS FURTHER ORDERED that applicant's Petition for Removal of the Order Denying Petition for Change of Venue issued on May 7, 2026 by the PWCJ is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER

/s/ PAUL F. KELLY, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

July 20, 2026

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

**CARLOS VALENCIA ORTIZ
MULLEN & FILIPPI**

SL/abs

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