

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

LEONARD MILLER (dec'd), et al., *Applicants*

vs.

**CITY OF LOS ANGELES DEPARTMENT OF AIRPORTS,
permissibly self-insured, self-administered, *Defendant***

**Adjudication Numbers: ADJ10515993; ADJ7932525
Van Nuys District Office**

**OPINION AND ORDER
DENYING PETITIONS
FOR RECONSIDERATION
AND REMOVAL**

Applicant has filed a petition for reconsideration and/or removal from the “Order Vacating Findings of Fact dated June 8, 2026, and Amended Findings of Fact and Orders” issued on June 29, 2026, by the workers’ compensation administrative law judge (WCJ), which ordered further development of the record and deferred any finding of fact.

Applicant contends that a finding of fact should issue on the current record as to the issue of dependency under Labor Code section 4703.5(a).¹

We have received an Answer from defendant, which argues, in part, that a contrary finding of fact, finding no dependency should issue. We have accepted defendant’s answer as a separate petition for removal.

The WCJ filed a Report and Recommendation on Petition for Removal (Report) recommending that we deny removal.

We have considered the allegations of the Petition for Reconsideration and Removal, the Answer, and the contents of the report of the workers’ compensation administrative law judge (WCJ) with respect thereto. Based on our review of the record, and based upon the WCJ’s analysis

¹ All further references are to the Labor Code unless otherwise noted.

of the merits of the petitioner’s arguments in the WCJ’s report, we will deny applicant’s Petition for Reconsideration/Removal and defendant’s Petition for Removal.

During the period from July 1, 2026, to July 13, 2026, section 5909(a) 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(a).)

Here, the Petition for Reconsideration was filed on July 9, 2026, and 60 days from the date of filing is Monday, September 7, 2026. The next business day that is 60 days from the date of filing is Tuesday, September 8, 2026. (See Cal. Code Regs., tit. 8, § 10600(b).)² This decision is issued by or on September 8, 2026, so that we have timely acted on the petition as required by section 5909(a).

As stated in our en banc decision:

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, 260 Cal. Rptr. 76; *Safeway Stores, Inc. v. Workers' Comp. Appeals Bd. (Pointer)* (1980) 104 Cal. App. 3d 528, 534–535 [163 Cal. Rptr. 750, 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 [97 Cal. Rptr. 2d 418, 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.

(*Ledezma v. Kareem Cart Commissary and Mfg.*, (2024) 89 Cal.Comp.Cases 462, 475 (En Banc).)

Here, the orders issued by the WCJ deferred the issues raised at trial and ordered further development of the record. The WCJ’s decision does not include any finding regarding a threshold

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.

issue. Accordingly, the WCJ's decision is not a final order subject to reconsideration. Therefore, we will apply the removal standard to our review. (See *Gaona, supra.*)

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 WCJ's analysis of the merits of the 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.

Therefore, we will deny applicant's Petition for Reconsideration/Removal and defendant's Petition for Removal.

For the foregoing reasons,

IT IS ORDERED that applicant's Petition for Reconsideration/Removal is **DENIED**.

IT IS FURTHER ORDERED that defendant's Petition for Removal is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ JOSEPH V. CAPURRO, COMMISSIONER

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

September 8, 2026

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

**MELBA MILLER, Guardian Ad Litem
JOSHUA & ISAAC CASTILLO WILSON
FERRONE LAW GROUP
CITY ATTORNEY – LOS ANGELES**

EDL/mt

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