

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

MICHAEL GARCIA, *Applicant*

vs.

**DEBORAH & GERALD WALBERG; STATE FARM FIRE & CASUALTY COMPANY;
ARCO AM/PM STRAUCH BROTHER, INC.; ZENITH INSURANCE CO., *Defendants***

**Adjudication Numbers: ADJ3006563, ADJ18423850
Sacramento and San Francisco District Offices**

**VEXATIOUS LITIGANT
PRE-FILING REVIEW
PURSUANT TO
CALIFORNIA CODE OF REGULATIONS,
TITLE 8, SECTION 10430**

On April 18, 2025, the presiding workers' compensation administrative law judge (PWCJ) at the Sacramento district office issued a Findings and Order (F&O) declaring applicant to be a vexatious litigant subject to a pre-filing order pursuant to WCAB Rule 10430. (Cal. Code Regs., tit. 8, § 10430.) The Order declaring that applicant is a vexatious litigant is final.

Under WCAB Rule 10430(f), when a person who has been designated as a vexatious litigant proposes to file a petition for reconsideration, removal or disqualification, it is "conditionally filed." The petition is only accepted as properly filed after approval by the Appeals Board.

Applicant, in pro per, has conditionally filed a Petition for Reconsideration on May 18, 2026, listing case number ADJ3006563 only. Applicant has also conditionally filed a Petition for Removal on June 12, 2026, listing case numbers ADJ3006563 and ADJ18423850. The PWCJ issued a Report on each of the conditionally filed Petitions, and transmitted the cases to the Appeals Board.

We have considered the contents of the Petitions and the record in the cases. Based on our review, we do not find a significant change in circumstances, such as new or newly discovered evidence or change in the law, that has materially affected the issue of fact or law that was

previously finally determined against the vexatious litigant. Accordingly, the Petitions are not accepted for filing.

Preliminarily, former Labor Code section 5909¹ 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 under the Events tab 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 cases were transmitted to the Appeals Board on May 22, 2026, and 60 days from the date of transmission is July 21, 2026. This decision was issued by or on July 21, 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 act on a petition. Section 5909(b)(2) provides that service of the Report shall constitute notice of transmission.

Here, according to the proof of service of the Report of the PWCJ transmitting the cases to the WCAB, it was served on May 22, 2026, and the cases were transmitted to the Appeals Board

¹ All section references are to the Labor Code, unless otherwise indicated.

on May 22, 2026. Service of the Report and transmission of the cases 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 22, 2026.

Accordingly, the Petition for Reconsideration conditionally filed on May 18, 2026, listing case number ADJ3006563 and the Petition for Removal conditionally filed on June 12, 2026, listing case numbers ADJ3006563 and ADJ18423850 are not accepted for filing.

For the foregoing reasons,

IT IS ORDERED that applicant's Petition for Reconsideration conditionally filed on May 18, 2026 and listing case number ADJ3006563 is **NOT ACCEPTED** for filing.

IT IS FURTHER ORDERED that applicant's Petition for Removal conditionally filed on June 12, 2026 and listing case numbers ADJ3006563 and ADJ18423850 is **NOT ACCEPTED** for filing.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ CRAIG L. SNELLINGS, COMMISSIONER

/s/ KATHERINE A. ZALEWSKI, CHAIR



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

July 21, 2026

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

**MICHAEL GARCIA
CHERNOW & PINE
MULLEN & FILIPPI
OFFICE OF THE DIRECTOR-LEGAL UNIT (SACRAMENTO)**

JL/abs

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