

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

**DONACIANO LOPEZ, *Applicant***

**vs.**

**GKN PLC; SAFETY NATIONAL CASUALTY CORPORATION,  
administered by BROADSPIRE, *Defendants***

**Adjudication Number: ADJ15095314  
San Diego District Office**

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

Applicant seeks reconsideration of the Opinion and Order Granting Petition for Disqualification and Decision After Disqualification (Decision) issued on April 15, 2024, by the Appeals Board.

We have received an answer from defendant.

We have considered the allegations of the Petition for Reconsideration.

Based on our review of the record and the allegations of the Petition, and for the reasons contained in our April 15, 2024 Decision, we will dismiss the Petition to the extent it seeks reconsideration, and deny it to the extent it seeks removal.

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.

Here, our Decision solely resolves an intermediate procedural or evidentiary issue or issues. 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 to the extent it seeks reconsideration.

We will also deny the petition to the extent it seeks 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 substantial 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, for the reasons stated in the WCJ's report, we are not persuaded that substantial 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.

Finally, we find it necessary to admonish petitioner to the extent that the tone of the Petition borders on sarcasm and indicates a lack of respect for the judicial system and process (i.e., advancing a legal argument that "the Commissioners have [inadvertently] created a new rule, i.e. the Donald J. Trump method for disqualifying workers compensation judges"). Such statements are not only inappropriate, they detract from the arguments being made by counsel on behalf of their client, and are in direct conflict with their oath as an attorney and officer of the court.<sup>1</sup>

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<sup>1</sup> "It is the duty of an attorney to do all of the following: ... (b) To maintain the respect due to the courts of justice and judicial officers." (Business and Professions Code section 6068(b)); "As an officer of the court, I will strive to conduct myself at all times with dignity, courtesy and integrity." (California Rules of Court, Rule 9.7. (Rev. January 1, 2014) Oath required when admitted to practice law).

Future violations may lead to the imposition of sanctions. (Lab. Code, § 5813; Cal. Code Regs., tit. 8, § 10421.<sup>2</sup>

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<sup>2</sup> Lab. Code Section 10421(b) imposes sanctions for bad faith or actions that are for an improper purpose or are indisputably without merit. These include: “(9) Using any language or gesture at or in connection with any hearing, or using any language in any pleading or other document: where the language or gesture: “Is directed to the Workers’ Compensation Appeals Board, to any of its officials or staff or to any party (or the attorney or non-attorney representative for a party); and )ii) Is patently insulting, offensive, insolent, intemperate, foul, vulgar, obscene, abusive or disrespectful; or (B) Where the language or gesture impugns the integrity of the Workers’ Compensation Appeals Board its is commissioners, judges or staff. (WCAB Rule 10421(b)(9).)

For the foregoing reasons,

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

**WORKERS' COMPENSATION APPEALS BOARD**

/s/ CRAIG SNELLINGS, COMMISSIONER

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

KATHERINE A. ZALEWSKI, CHAIR  
CONCURRING NOT SIGNING



**DATED AND FILED AT SAN FRANCISCO, CALIFORNIA**

**July 1, 2024**

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

**DONACIANO LOPEZ  
LAW OFFICES OF THOMAS M. DEBENEDETTO  
LAW OFFICES OF BRADFORD & BARTHEL**

**LAS/abs**

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