

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

**GEORGENIA BROCKS, *Applicant***

**vs.**

**COUNTY OF CONTRA COSTA, DEPARTMENT OF CHILDREN AND FAMILY  
SERVICES;  
PERMISSIBLY SELF-INSURED AND SELF-ADMINISTERED, *Defendants***

**Adjudication Number: ADJ17477426  
Oakland District Office**

**OPINION AND ORDER  
DISMISSING PETITION FOR  
RECONSIDERATION**

On May 9, 2025, applicant, through her attorney of record, filed a Petition for Removal regarding the Stipulated Award issued by the workers' compensation administrative law judge (WCJ) on April 28, 2025. Therein the parties stipulated, as relevant here, that applicant sustained industrial injury to the left humerus and left shoulder while employed as a social casework assistant on January 19, 2023, causing 12% permanent disability and need for medical treatment.

In the skeletal Petition for Removal, applicant contends that she signed the stipulations under duress and requests that the Award be rescinded.

Applicant's attorney concurrently filed a skeletal Petition to be Relieved as Counsel stating no grounds for the request.

We did not receive an answer. The WCJ issued a Report and Recommendation on applicant's Petition for Removal and/or to Set Aside Stipulations & Award recommending that the removal and/or reconsideration be dismissed and/or denied or that the case be remanded back for an evidentiary hearing on whether there is good cause to set aside the Award.

We have considered the allegations of the petition and the record in this matter. For the reasons discussed below, we will treat applicant's petition as one seeking reconsideration, dismiss reconsideration as premature, and return this matter to the trial level so that applicant's petition can be treated as a Petition to Set Aside.

## I.

Former Labor Code<sup>1</sup> section 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, Labor Code 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 transmitted to the Appeals Board on May 29, 2025, and 60 days from the date of transmission is July 28, 2025. This decision is issued by or on July 28, 2025, 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 and Recommendation shall be notice of transmission.

Here, according to the proof of service for the Report and Recommendation by the workers’ compensation administrative law judge, the Report was served on May 29, 2025, and the case was transmitted to the Appeals Board on May 29, 2025. Service of the Report and transmission of the

---

<sup>1</sup> All further statutory references are to the Labor Code, unless otherwise noted.

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 29, 2025.

## II.

A petition for reconsideration is the proper remedy to be taken 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, the Stipulated Award determines a substantive rights and liability as between the parties. Therefore, it is a final order from which the proper remedy is reconsideration and not removal.

## III.

A decision “must be based on admitted evidence in the record” (*Hamilton v. Lockheed Corporation (Hamilton)* (2001) 66 Cal.Comp.Cases 473, 476 (Appeals Board en banc), citing *Evans v. Workmen’s Comp. Appeals Bd.* (1968) 68 Cal.2d 753, 755 [33 Cal.Comp.Cases 350, 351]), and must be supported by substantial evidence. (Lab. Code, §§ 5903, 5952, subd. (d); *Lamb v. Workmen’s Comp. Appeals Bd.* (1974) 11 Cal.3d 274 [39 Cal.Comp.Cases 310]; *Garza v. Workmen’s Comp. Appeals Bd.* (1970) 3 Cal.3d 312 [35 Cal.Comp.Cases 500]; *LeVesque v. Workers’ Comp. Appeals Bd.* (1970) 1 Cal.3d 627 [35 Cal.Comp.Cases 16].)

Section 5313 provides:

The appeals board or the workers' compensation judge shall, within 30 days after the case is submitted, make and file findings upon all facts involved in the controversy and an award, order, or decision stating the determination as to the rights of the parties. Together with the findings, decision, order or award there shall be served upon all the parties to the proceedings a summary of the evidence received and relied upon and the reasons or grounds upon which the determination was made.

(Lab. Code, § 5313.)

As required by section 5313 and explained in *Hamilton*, “the WCJ is charged with the responsibility of referring to the evidence in the opinion on decision, and of clearly designating the evidence that forms the basis of the decision.” (*Hamilton, supra*, at p. 478; see also *Blackledge v. Bank of America, ACE American Insurance Company* (2010) 75 Cal.Comp.Cases 613, 621-22 (Appeals Board en banc).)

The WCJ's opinion on decision “enables the parties, and the Board if reconsideration is sought, to ascertain the basis for the decision....” (*Hamilton, supra*, at p. 476.) The Court of Appeal has further observed that pursuant to Labor Code section 5908.5, decisions of the Appeals Board must state the evidence relied upon and specify in detail the reasons for the decision. (*Evans v. Workmen's Comp. Appeals Bd.* (1968) 68 Cal.2d 753, 755 [33 Cal.Comp.Cases 350, 351] (Evans).) The purpose of the requirement is “to assist the reviewing court to ascertain the principles relied upon by the lower tribunal, to help that tribunal avoid careless or arbitrary action, and to make the right of appeal or of seeking review more meaningful.” (*Evans, supra*, at p. 755.)

Here, in the absence of a record, we are unable to evaluate applicant's contentions. All parties in workers' compensation proceedings retain their fundamental right to due process and a fair hearing under both the California and United States Constitutions. (*Rucker v. Workers' Comp. Appeals Bd.* (2000) 82 Cal.App.4th 151, 157-158 [65 Cal.Comp.Cases 805].) A fair hearing includes, but is not limited to, the opportunity to call and cross-examine witnesses; introduce and inspect exhibits; and to offer evidence in rebuttal. (See *Gangwish v. Workers' Comp. Appeals Bd.* (2001) 89 Cal.App.4th 1284, 1295 [66 Cal.Comp.Cases 584]; *Rucker, supra*, at 157-158 citing *Kaiser Co. v. Industrial Acci. Com. (Baskin)* (1952) 109 Cal.App.2d 54, 58 [17 Cal.Comp.Cases 21]; *Katzin v. Workers' Comp. Appeals Bd.* (1992) 5 Cal.App.4th 703, 710 [57 Cal.Comp.Cases 230].)

Accordingly, we dismiss the Petition as premature and return the matter to the WCJ for further proceedings consistent with this opinion. Upon return of this matter to the trial level, we recommend that the WCJ treat the petition as a petition to set aside the Order Dismissing. After the WCJ issues a decision, any aggrieved person may then timely seek reconsideration of that decision.

Lastly, we note that the May 12, 2025 Order Relieving Pacific Worker’ as Counsel, issued as a “self-destruct”<sup>2</sup> order states that it based on “GOOD CAUSE.” However, there is no record in this regard nor does the Petition to be Relieved as Counsel allege any basis for the request. Upon this matter’s return to the trial level, the WCJ should clarify with applicant on the record whether there is any objection to relieving her attorney. If she does, The WCJ can set the petition to be relieved for hearing as well.

---

<sup>2</sup> “Self-destruct” orders are strongly disfavored because the moment that the order potentially becomes “void” is dependent on whether and when an objection is filed, making it difficult to determine exactly when or if the order is void. The WCJ should have issued a notice of intention pursuant to Rule 10832. (Cal. Code Regs., tit. 8, § 10832.)

For the foregoing reasons,

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

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ JOSE H. RAZO, COMMISSIONER**

**I CONCUR,**

**/s/ JOSEPH V. CAPURRO, COMMISSIONER**

**CRAIG SNELLINGS, COMMISSIONER**  
**CONCURRING NOT SIGNING**



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

**JULY 28, 2025**

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

**GEORGENIA BROCKS  
PACIFIC WORKERS  
HANNA BROPHY  
EMPLOYMENT DEVELOPMENT DEPARTMENT**

**PAG/bp**

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