

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

LORRAINE GONSALVES, *Applicant*

vs.

**FRONTIER MANAGEMENT LLC;
CHURCH MUTUAL INSURANCE COMPANY**

AND

**CAMP FIRE USA;
STATE COMPENSATION INSURANCE FUND, *Defendants***

**Adjudication Numbers: ADJ11896735; ADJ3117080
Sacramento District Office**

**OPINION AND ORDER
DISMISSING PETITION
FOR REMOVAL**

On February 18, 2025, we issued our Opinion and Order Dismissing Petition for Reconsideration (Decision) so that a workers' compensation administrative law judge (WCJ) could hold a hearing and admit evidence to decide whether to set aside the December 20, 2020 order dismissing. We noted that once the WCJ issues a new decision, applicant or any other aggrieved person could seek reconsideration.

According to the Report and Recommendation by the PW CJ, subsequently, on March 26, 2025, the Presiding WCJ (PW CJ) issued an order taking ADJ3117080 off calendar and issued an order continuing the trial in ADJ11896735.

On April 25, 2025, applicant filed a document titled "Appeal Order Dismissing Petition for Recognition of a contention to a Pre-Trial status conference (*sic*)."

We have considered the allegations of the "Appeal Order Dismissing Petition for Recognition of a contention to a Pre-Trial status conference (*sic*)" and the contents of the Report of the PW CJ with respect thereto. Based on our review of the record, and for the reasons stated below and for the reasons stated in the PW CJ's Report, which we adopt and incorporate, we will treat the document as a petition for removal, and we will dismiss it.

We note that we are unable to discern what applicant's actual contentions are. As explained further below, to the extent that she seeks review of our February 18, 2025 Decision, such a petition would be seeking review of a non-final order and would be untimely. If she seeks review of the orders taking her case off calendar and continuing the matter, based upon the PWCJ's analysis of the merits of applicant's arguments in the attached Report from the PWCJ, we will dismiss the petition.

We first consider the petition in response to our February 18, 2025 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; *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 for reconsideration will be dismissed.

We also note that there are 25 days allowed within which to file a petition for removal from a "non-final" decision that has been served by mail upon an address in California. (Cal. Code Regs., tit. 8, §§ 10605(a)(1), 10955(a).) 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, however, a petition for removal 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, §§ 10615(b), 10940(a).) The petition in this matter was filed on April 25, 2025. This was more than 25 days after the service of our February 18, 2025 Decision and beyond whatever extension of time, if any, applicant might have been entitled to under WCAB Rule 10600. If the petition had been timely, we would have denied it on the merits for the reasons stated in our February 18, 2025 Decision.

With respect to the PWCJ's orders of March 26, 2025, as explained above, based upon the PWCJ's analysis of the merits of applicant's arguments, 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. As the petition fails to state any grounds for relief, we dismiss it.

For the foregoing reasons,

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

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

June 3, 2025

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

**LORRAINE GONSALVES, IN PRO PER
THOMAS KINSEY, ESQ.
STATE COMPENSATION INSURANCE FUND, LEGAL**

AS/mc

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

REPORT AND RECOMMENDATION ON PETITION FOR REMOVAL

INTRODUCTION

On April 25, 2025, applicant, in pro per, filed two separate, but similar, unverified petitions in ADJ3117080 and ADJ11896735. The petitions are titled “Appeal Order Dismissing Petition for Recognition of a contention to a Pre-Trial status conference”. It is difficult to discern what the applicant is requesting, but the undersigned believes that applicant is requesting review of the March 26, 2025, order taking ADJ3117080 off calendar. Additionally, the undersigned believes applicant is requesting review of the orders continuing ADJ11896735, dated March 26, 2025 and April 30, 2025, so that the issue of whether there is good cause to set aside the December 2, 2020 Order Dismissing the claim for lack of prosecution can be set for trial. ADJ11896735 is currently set for a status conference on May 28, 2025.

FACTS

Applicant’s July 19, 1996, injury to her right ankle, assigned to ADJ3117080 (SAC0248391), was settled by way of Stipulations with Request for Award on October 14, 1998. The stipulations were approved by Judge Dugan awarding applicant 38¾% permanent disability and an award for future medical care. The Petition to Reopen that was filed on March 27, 2001, was dismissed by Judge Cleveland on August 18, 2006.

ADJ3117080 was ordered off calendar on March 26, 2025, with a notation that applicant is to work with State Compensation Insurance Fund regarding her medical award.

Applicant’s November 13, 2018, injury to her right shoulder and chest, was assigned to ADJ11896735. An Order Dismissing ADJ11896735 for lack of prosecution issued on December 2, 2020. On November 14, 2024, applicant filed a Petition for Reconsideration which was dismissed by the Workers’ Compensation Appeals Board on February 18, 2025, but the case was returned to the Sacramento District Office to allow for a hearing on whether there is good cause to set aside the Order Dismissing. The case was scheduled for a status

conference on March 26, 2025, and has been continued twice to allow applicant time to complete the Pre-Trial Conference Statement.

On April 25, 2025, applicant filed the two unverified twenty-six page petitions.¹

Defendants have not filed a response as of May 12, 2025.

DISCUSSION

Removal is an extraordinary remedy rarely exercised by the Appeals Board. (*Cortez v. Workers' Comp. Appeals Bd.* (2006) 136 Cal. App. 4th 596, 600, fn. 5 [71 Cal. Comp. Cases 155, 157, fn. 5]; *Kleemann v. Workers' Comp. Appeals Bd.* (2005) 127 Cal. App. 4th 274, 281, fn. 2 [70 Cal. Comp. Cases 133, 136, fn. 2].) 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)(2).

The undersigned does not believe that applicant has established significant prejudice or irreparable harm with regard to the order taking ADJ3117080 off calendar or the order continuing ADJ11896735 to allow time for applicant to complete the pre-trial conference statement.

RECOMMENDATION

It is respectfully recommended that applicant's petitions be viewed as a Petition for Removal. The undersigned recommends that both petitions be denied.

Date: May 12, 2025

NOAH W. TEMPKIN
WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE

¹ Assuming applicant's petition is considered a Petition for Removal, it exceeds the page limit set forth in Rule §10940.