

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

SAMUEL WILLIAMS, *Applicant*

vs.

**LOS ANGELES DEPARTMENT OF WATER AND POWER;
permissibly self-insured, *Defendants***

**Adjudication Number: ADJ14421256; ADJ13440052
Marina del Rey District Office**

**OPINION AND ORDERS
DISMISSING PETITION FOR
RECONSIDERATION
AND DENYING PETITION
FOR REMOVAL AND
DISQUALIFICATION**

On April 29, 2025, applicant, in pro per, filed a Petition for Removal in Case Nos. ADJ14421256 and ADJ13440052 and a Petition for Reconsideration in Case No. ADJ13440052. We have considered the allegations of applicant's petitions and the contents of the WCJ's Joint Report and Recommendation on Petition for Removal and Report and Recommendation on Petition for Reconsideration. Based on our review of the record, and for the reasons stated below, we will dismiss applicant's Petition for Reconsideration and deny the Petition for Removal. To the extent applicant requests disqualification, we deny that request for the reasons stated by the WCJ in the Joint Report and Recommendation on Petition for Removal, which we adopt and incorporate, and the reasons stated below.

I.

Preliminarily, we note that former Labor Code¹ 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, section 5909 was amended to state in relevant part that:

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

(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, Case No. ADJ13440052 was transmitted to the Appeals Board on May 30, 2025 and Case No. ADJ14421256 was transmitted on June 9, 2025. Sixty days from the earliest date of transmission is July 29, 2025. This decision is issued by or on July 29, 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. Labor Code 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 30, 2025, and the case was transmitted to the Appeals Board on May 30, 2025. Service of the Report and transmission of the 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 30, 2025.

II.

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, the April 23, 2025 Minute Order taking this case off calenda is solely an intermediate procedural order. It does not determine any substantive right or liability and does not determine a threshold issue. Accordingly, it is not a “final” decision. Therefore, the request for reconsideration will be dismissed.

III.

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, based upon the WCJ’s analysis of the merits of petitioner’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.

IV.

Next, we note that applicant has not filed a Petition for Disqualification. However, to the extent that applicant intended to request disqualification, we deny that request. Section 5311 provides that a party may seek to disqualify a WCJ upon any one or more of the grounds specified in Code of Civil Procedure section 641. (Lab. Code, § 5311; see also Code Civ. Proc., § 641.) Among the grounds for disqualification under section 641 are that the WCJ has “formed or expressed an unqualified opinion or belief as to the merits of the action” (Code Civ. Proc., § 641(f)) or that the WCJ has demonstrated “[t]he existence of a state of mind ... evincing enmity against or bias toward either party” (Code Civ. Proc., § 641(g)).

Under WCAB Rule 10960, proceedings to disqualify a WCJ “shall be initiated by the filing of a petition for disqualification supported by an affidavit or declaration under penalty of perjury stating in detail facts establishing one or more of the grounds for disqualification” (Cal. Code Regs., tit. 8, former § 10452, now § 10960 (eff. Jan. 1, 2020), italics added.) It has long been recognized that “[t]he allegations in a statement charging bias and prejudice of a judge must set forth specifically the facts on which the charge is predicated,” that “[a] statement containing nothing but conclusions and setting forth no facts constituting a ground for disqualification may be ignored,” and that “[w]here no facts are set forth in the statement there is no issue of fact to be determined.” (*Mackie v. Dyer* (1957) 154 Cal.App.2d 395, 399, italics added.) Under no circumstances may a party’s unilateral and subjective perception of bias afford a basis for disqualification. (*Haas v. County of San Bernardino* (2002) 27 Cal.4th 1017, 1034; *Robbins v. Sharp Healthcare* (2006) 71 Cal.Comp.Cases 1291, 1310-1311 (Significant Panel Decision).)

Moreover, WCAB Rule 10960 provides that when the WCJ and “the grounds for disqualification” are known, a petition for disqualification “shall be filed not more than 10 days after service of notice of hearing or after grounds for disqualification are known.”

Here, the request for disqualification does not set forth a declaration or affidavit providing facts, declared under penalty of perjury, that are sufficient to establish disqualification pursuant to Labor Code section 5311, WCAB Rule 10960, and Code of Civil Procedure section 641(f) and/or (g). Accordingly, the request for disqualification is denied.

For the foregoing reasons,

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

IT IS FURTHER ORDERED that the Petition for Removal and Disqualification is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

CRAIG SNELLINGS, COMMISSIONER
CONCURRING NOT SIGNING



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

JULY 29, 2025

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

**SAMUEL WILLIAMS
HALLETT EMERICK WELLS & SAREEN
CITY ATTORNEY DWP**

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

JOINT REPORT AND RECOMMENDATION
ON PETITION FOR REMOVAL

I
INTRODUCTION

- | | |
|--|---|
| 1. Applicant's Occupation: | Steam Plant Maintenance Mechanic |
| 2. Applicant's Age: | 47 |
| 3. Date of injury: | 1/7/2008 to 3/24/2021; 2/9/2021 |
| 4. Parts of Body Injured: | Head, back, neck, both shoulders, elbows, wrists, hips, knees, ankles and lower extremities |
| 5. Matter in which injuries have occurred: | Cumulative Trauma; Specific injury |
| 6. Identity of Petitioner: | Applicant in propria persona |
| 7. Timeliness: | The petition was timely filed |
| 8. Verification: | A verification is attached |
| 9. Date of Minutes of Hearing: | 4/23/2025 |
| 10. Petitioner's contentions: | The WCJ erred by taking the 4/23/2025 MSC off calendar |

II
JURISDICTIONAL HISTORY

ADJ13440052

Applicant, Samuel Williams, while employed during the period 1/7/2008 to 3/24/2021, as a Steam Plant Maintenance Mechanic, by Los Angeles Department of Water and Power, claims to have sustained injury arising out of and in the course of his employment to his head, back, neck, both shoulders, elbows, wrists, hips, knees, ankles and lower extremities.

ADJ14421256

Applicant, Samuel Williams, while employed on 2/9/2021, as a Steam Plant Maintenance Mechanic, by Los Angeles Department of Water and Power, claims to have sustained injury arising out of and in the course of his employment to his back and shoulders.

On 4/23/2025 at 1:30 pm, an MSC was held virtually via CourtCall before the undersigned WCJ. The only case on calendar that afternoon was Applicant's and the only parties on Courtcall were the Applicant who is in propria persona, the Information and Assistance Officer, Keith Markman, Defense counsel, H. Neal Wells and the undersigned WCJ.

At some point, during the proceedings, Applicant commenced using profanity, used threatening language, lodged insults at the WCJ, the Information and Assistance Officer, Mr. Markman and Defense counsel, Mr. Wells. The WCJ repeatedly attempted to remind the Applicant that he was to cease his threatening words and stop using profanity but he continued to use threatening language, use profanity and lodge insults at the WCJ, the I&A Officer and

defense counsel. After several minutes of Applicant not heeding the WCJ's warnings, including speaking over her instructions, the WCJ chose to end the MSC by ending Courtcall and took the matter off calendar setting forth her reasons on the Minutes of Hearing dated 4/23/2025.

The Minutes of Hearing reflects the following under Board reason. "The matters were taken off calendar by P.J. Rose until Applicant can behave in a professional manner. The Applicant's repeated use of profanity, insulting language and failure to heed the Judge's instructions will not be tolerated."

On 4/29/2025, the Applicant filed both a verified Petition for Reconsideration on ADJ13440052 and a Petition for Removal on both ADJ13440052 and ADJ14421256, at issue in both Petitions is the 4/23/2025 MSC being taken off calendar. To date, Defendant has not filed a response to either the Petition for Reconsideration or to the Petition for Removal. A Report and Recommendation on the Petition for Reconsideration was uploaded and transmitted to the Recon Unit on 5/28/2025. My apologies to the parties for the delay in filing this report concerning the Petition for Removal.

For the following reasons the Petition for Removal should also be denied.

III **DISCUSSION**

A Petition for Removal is an extraordinary remedy, rarely exercised by the appeals Board, and is generally available only where the petitioner has established that substantial prejudice or irreparable injury will result if removal is not granted. Swedlow, inc. v WCAB(Smith) (1983) 48 CCC 476 (writ denied); Lubin v. Berkeley East Convalescent Hospital (1976) 41 CCC 283 (Board Panel); Hardesty v. McCord & Holdren, Inc. et. al. (1976) 41 CCC 111 (Board En Banc). Further CCR section 10955 requires a showing that reconsideration will not be an adequate remedy after issuance of a final order, decision or award.

Applicant has failed to demonstrate that the 4/23/2025 MSC being taken off calendar by the WCJ due to Applicant's threatening behavior will result in either significant prejudice or irreparable harm or that reconsideration would not be an adequate remedy after issuance of a final order, decision or award.

In the Petition for Removal, Applicant alleges that the 4/23/2025 MSC was improperly terminated by the WCJ "due to racial biasness, and retaliatory reasons due to her having 'Joint Power Authority'".

The Applicant then includes a Statement of Facts outlining certain alleged events that took place during WCAB hearings which are either not based in fact or unable to be verified by the WCJ. This latter category relates to Applicant's statement that he performed unlawful audio recordings of the proceedings before the WCAB.

The Applicant states repeatedly that the WCJ has been unprofessional and unethical from the first MSC she presided over in August of 2024 but fails to set forth any examples of said behavior. The only response the WCJ has is that she has not acted either in an unprofessional or unethical manner in any of the proceedings involving the Applicant.

Applicant indicates that at some point in the hearing on 4/23/2025 that he raised the fact that he had mental health problems. The WCJ can verify that this statement is accurate but at no point did the WCJ respond that she did not care about his mental health problems. The WCJ specifically recalls that she did state at that as a WCJ, she was not qualified to assist the

Applicant with these problems and that he should seek the assistance of a mental health professional.

Throughout all of the Applicant's in person appearances, and virtual conferences either via the ATT lines or Courtcall, Applicant has consistently acted in a threatening, disrespectful and offensive manner, hurling insults, using profane language and raising his voice at several WCJs including the undersigned. The Applicant has appeared virtually before the undersigned on at least seven occasions.

His repeated behavior and threatening choice of words prompted the DWC and DIR to take action in order to ensure the safety of the WCAB personnel in Marina del Rey. As a result of these actions, the Applicant may only appear virtually at the MDR WCAB. While it is understandable that the Applicant may feel strongly about his case, it does not excuse the fact that his threatening behavior and offensive language up to and including the 4/23/2025 MSC prompted the WCJ to take the matter off calendar.

As a Presiding Judge, the undersigned is charged with various responsibilities and tasks. The administration of benefits to injured workers, supervising 15 line judges and the entire MDR staff. Additionally, the safety of the DIR employees, the injured workers, the legal representatives, interpreters who work in Marina del Rey is a top priority.

Nothing in the Minute Order precludes Applicant from returning back to hearing virtually once he agrees to change his behavior and act in a professional and non-threatening manner.

Applicant's argument that the 4/23/2025 Order was retaliatory and discriminatory is not supported by the record or the facts.

Finally, applicant's prayer for relief seeks to vacate the WCJ Order taking the matter off calendar and issue an immediate mediation of the parties. The WCAB does not have jurisdiction over mediation, the parties may engage in settlement discussions at any point without the supervision of the WCAB. Over the course of the last 7 MSC's before the undersigned WC, this is the first time Applicant has communicated any interest in meeting with Defendant for mediation purposes.

IV
RECOMMENDATION

It is respectfully recommended that Applicant's Petition for Removal be denied for the reasons set forth above.

6/9/2025

Respectfully submitted,
CIRINA A. ROSE
Workers' Compensation Judge

Date: 6/9/2025

Served on parties as shown on
Official Address Record.

By: Monica Lari