

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

JOYCE SIMON, *Applicant*

vs.

**COUNTY OF ORANGE, permissibly self-insured,
administered by SEDGWICK CMS, *Defendants***

**Adjudication Number: ADJ4648071 (AHM0111251)
Anaheim District Office**

**OPINION AND ORDER
DENYING PETITION
FOR RECONSIDERATION**

Applicant seeks reconsideration¹ of the “Vexatious Litigant Pre-Filing Review Pursuant to WCAB Rule 10430” (Order) issued on April 7, 2026, by the workers’ compensation administrative law judge (WCJ). The WCJ found that applicant, a vexatious litigant, improperly refiled a petition seeking 132a benefits, where applicant has previously adjudicated a 132a petition. The WCJ did not permit applicant to file a new 132a petition.

Applicant contends that she does not seek to relitigate the prior 132a petition but wishes to proceed upon a new 132a based upon a statement made by defendant within the course of litigation.

We have not received an answer from defendant. The WCJ filed a Report and Recommendation on Petition for Removal (Report) recommending that we deny the petition.

We have considered the allegations of the Petition for Reconsideration and the contents of the WCJ’s Report. Based on our review of the record and for the reasons discussed in the WCJ’s Report, we will treat the petition as seeking reconsideration of the April 7, 2026 Order and deny reconsideration.

¹ Applicant filed a petition labeled “Petition for Removal”, however, and because an order denying filing is a final order, we have treated the petition as seeking reconsideration.

FACTS

Per the WCJ's Report:

On May 20, 2003, Ms. Simon sustained injury arising out of and in the course of her employment with the County of Orange. On August 2, 2013, Workers' Compensation Judge Christine Nelson (now retired) issued a Findings, Award and Order in which applicant was found to have sustained 75% permanent partial disability, after apportionment, due to her May 20, 2003 injury. Thereafter, Ms. Simon filed several successive petitions for reconsideration that resulted in the Appeals Board declaring her a vexatious litigant on April 16, 2015.

In 2019, Ms. Simon filed an application for benefits from the Subsequent Injuries Benefits Trust Fund. On February 5, 2024, Workers' Compensation Judge Katharine Holmes issued a Findings and Order denying applicant's claim for SIBTF benefits, the Appeals Board denied applicant's petition for reconsideration on May 3, 2024, and the Court of Appeal denied applicant's petition for writ of review on June 27, 2024.

In August 2024, Ms. Simon filed a petition for benefits pursuant to Labor Code section 132a. On August 19, 2025, Judge Holmes issued a finding that defendant did not violate section 132a and ordered that applicant take nothing by way of that claim. The Appeals Board denied applicant's petition for reconsideration on November 25, 2025, and the Court of Appeal denied applicant's petition for writ of review on February 26, 2026.

Since then, Ms. Simon has submitted several additional documents that were reviewed by this presiding judge pursuant to WCAB Rule 10430 and were not accepted for filing pursuant to determinations made on April 1, 2026 and April 7, 2026. The latter determination rejected a petition for pre-filing review, a Declaration of Readiness to Proceed, and "Applicant's Trial Brief" in which Ms. Simon attempted to again argue the merits of her 132a claim.

On May 4, 2026, Ms. Simon submitted more documents including a "Petition Challenging Pre-Filing Denial and Request for Authorization to File Labor Code §132a Petition" (Petition), along with a new 132a petition and a DOR. The Petition challenged the court's April 7, 2026 pre-filing determination and asked that it be vacated and that applicant be allowed to file her "new" 132a petition (which was not part of the April 7, 2026 determination). To the extent that the Petition challenged the April 7, 2026 determination and asked that it be vacated, this judge decided to treat that as a Petition for Removal and accepted it for filing so that a Report and Recommendation could be prepared and the Appeals Board could perform the requested review. In the meantime, the new 132a petition was not accepted for filing, and action on the DOR was deferred pending the Appeals Board's decision on the instant Petition.

(WCJ's Report, p. 2.)

DISCUSSION

I.

Former Labor Code² 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:

(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.

(§ 5909.)

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 8, 2026, and 60 days from the date of transmission is Tuesday, July 7, 2026. This decision is issued by or on July 7, 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 and Recommendation shall be notice of transmission.

² All future references are to the Labor Code unless noted.

According to the proof of service for the Report and Recommendation by the WCJ, the Report was served on May 8, 2026, and the case was transmitted to the Appeals Board on May 8, 2026. 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 8, 2026.

II.

As stated in our en banc 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, 260 Cal. Rptr. 76; *Safeway Stores, Inc. v. Workers' Comp. Appeals Bd. (Pointer)* (1980) 104 Cal. App. 3d 528, 534–535 [163 Cal. Rptr. 750, 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 [97 Cal. Rptr. 2d 418, 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.

(*Ledezma v. Kareem Cart Commissary and Mfg.* (2024) 89 Cal.Comp.Cases 462, 475 (En Banc).)

Here, the order issued by the WCJ rejected applicant’s 132a petition for filing. This is a final order, which is subject to reconsideration as it, in effect, terminates any further proceedings upon the petition. Accordingly, we have treated applicant’s petition as seeking reconsideration.

However, and for the reasons discussed by the WCJ in the Report, we agree that applicant’s renewed petition for section 132a benefits constitutes a frivolous filing from a vexatious litigant. The WCJ correctly denied filing of the petition.

Accordingly, we deny applicant's Petition for Reconsideration.

For the foregoing reasons,

IT IS ORDERED that applicant's Petition for Reconsideration of the Vexatious Litigant Pre-Filing Review Pursuant to WCAB Rule 10430 issued on April 7, 2026, by the WCJ is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ CRAIG L. SNELLINGS, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

July 7, 2026

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

**JOYCE SIMON
OFFICE OF THE DIRECTOR- LEGAL UNIT (LOS ANGELES)
THOMAS KINSEY**

EDL/mt

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