BRB No. 14-0277
OWCP No. 02-233683

MARIA JORDAN	)	
	)	
Claimant-Petitioner	)	
	)	
v.	)	
	)	
DYNCORP INTERNATIONAL, L.L.C.	)	DATE ISSUED: June 26, 2014
	)	
	)	
Self-Insured Employer-Respondent	)	ORDER

Claimant has appealed the Order Granting in Part and Denying in Part Employer's Motion to Quash Subpoenas and Second Motion to Quash Subpoenas of Administrative Law Judge Lee J. Romero, Jr., rendered on a claim filed pursuant to the provisions of the Longshore and Harbor Workers' Compensation Act, as amended, 33 U.S.C. §901 *et seq.*, as extended by the Defense Base Act, 42 U.S.C. §1651 *et seq*. (the Act).

This appeal is of an interlocutory order. Generally, in order for a non-final order to be appealable, it must: conclusively determine the disputed question; resolve an important issue which is completely separate from the merits of the action; and be effectively unreviewable on appeal from a final judgment. *Gulfstream Aerospace Corp. v. Mayacamas Corp*., 485 U.S. 271 (1988) ("collateral order doctrine"); *Newton v. P & O Ports Louisiana, Inc.*, 38 BRBS 23 (2004). Where the order appealed from does not satisfy the aforementioned doctrine, the Board may grant interlocutory review upon finding, in its discretion, that it is necessary to properly direct the course of the adjudicatory process. *See Butler v. Ingalls Shipbuilding, Inc.*, 28 BRBS 114 (1994); *Baroumes v. Eagle Marine Services*, 23 BRBS 80 (1989); *Niazy v. The Capital Hilton Hotel*, 19 BRBS 266 (1987). The Board generally declines to review interlocutory discovery orders because they fail to meet the third prong of the collateral order doctrine; that is, discovery orders are reviewable, under an abuse of discretion standard, after a final order has been issued. *Tignor v. Newport News Shipbuilding & Dry Dock Co.*, 29 BRBS 135 (1995); *c.f. Niazy*, 19 BRBS 266 (due process issue required immediate review).

The administrative law judge's discovery order in this case addresses the determinations he made with regard to each of 14 subpoenas requested by claimant. The administrative law judge granted employer's motions to quash the majority of the

subpoenas in whole or in part.[1] The order does not invoke the collateral order doctrine, *Newton*, 38 BRBS 23, and it is not unreviewable upon the issuance of a final decision on the merits. Rather, claimant's challenge to the administrative law judge's limitations on discovery is reviewable following a decision on the merits. *See generally J.T. [Tracy] v. Global Int'l Offshore, Ltd.*, 43 BRBS 92 (2009), *aff'd sub nom. Keller Foundation/Case Foundation v. Tracy*, 696 F.3d 835, 46 BRBS 69(CRT) (9th Cir. 2012), *cert. denied*, 133 S.Ct. 2825 (2013). Moreover, we need not direct the course of the adjudicatory process in this case. *Niazy*, 19 BRBS 266. Therefore, we dismiss claimant's appeal of the administrative law judge's interlocutory order.

Accordingly, claimant's appeal is dismissed.

SO ORDERED.

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BETTY JEAN HALL, Acting Chief
Administrative Appeals Judge

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ROY P. SMITH
Administrative Appeals Judge

_____
REGINA C. McGRANERY
Administrative Appeals Judge

[1] The administrative law judge granted employer's motion to quash eight subpoenas in their entirety and five subpoenas in part.