

U.S. Department of Labor

Benefits Review Board
200 Constitution Ave. NW
Washington, DC 20210-0001



BRB No. 24-0458
Case No. 2024-LDA-00311
OWCP No. LS-01401494

RYAN CARBALLO

Claimant-Respondent

v.

PROCK MARINE COMPANY

and

AMERICAN LONGSHORE MUTUAL
ASSOCIATION, LTD. c/o AMERICAN
EQUITY UNDERWRITERS,
INCORPORATED (AEU)

Employer/Carrier-
Petitioners

DIRECTOR, OFFICE OF WORKERS'
COMPENSATION PROGRAMS, UNITED
STATES DEPARTMENT OF LABOR

Respondent

HOMEPORT INSURANCE COMPANY

Intervenor

NOT-PUBLISHED

DATE ISSUED: 08/04/2026

ORDER

On September 10, 2024, Employer and its Carrier (Employer) timely appealed Administrative Law Judge (ALJ) Jonathan C. Calianos's Order Granting Claimant's Motion to Dismiss and Order Denying Motion for Reconsideration (2024-LHC-00311) rendered in a case arising under the Longshore and Harbor Workers' Compensation Act,

as amended, 33 U.S.C. §§901-950 (Act). 33 U.S.C. §921. Employer submitted its Petition for Review,¹ and both Claimant and the Director, Office of Workers' Compensation Programs (the Director) submitted response briefs. 20 C.F.R. §§802.211, 802.212. Homeport Insurance Company (Homeport) moved to intervene and requested leave to file an amicus brief, which the Board granted. 20 C.F.R. §§802.214, 802.215; *Carballo v. Prock Marine Co.*, BRB No. 24-0458 (Apr. 11, 2025).

Thereafter, on June 12, 2026, Employer submitted what it titled an "Unopposed Motion to Remand." Employer indicated that it and Claimant had reached a settlement "of all outstanding issues in dispute" and requested the Benefits Review Board (Board) dismiss the appeal and remand the case to the Office of Administrative Law Judges (OALJ) for "further administrative handling of the settlement application." Employer stated Claimant consented to the motion. On June 18, 2026, the Board issued an order granting Employer's motion and remanding the claim to the OALJ. *Carballo v. Prock Marine Co.*, BRB No. 24-0458 (June 18, 2026).

However, it appears Employer failed to obtain consent from all parties. On June 23, 2026, the Director filed a Motion for Reconsideration with the Board requesting it dismiss the claim with prejudice for lack of jurisdiction. The Director explained that the issue on appeal is whether Claimant filed a claim under the Act such that the OALJ has jurisdiction over his request for benefits; the ALJ found he did not and dismissed the claim for lack of jurisdiction. The Director argues the Board improperly remanded the claim to the ALJ despite the ALJ's finding that he lacked jurisdiction over it and urges the Board to instead dismiss the claim for lack of jurisdiction.

Employer responds, opposing the Director's Motion for Reconsideration. It notes the issues before the ALJ were threefold: 1) whether Claimant is disqualified from receiving benefits under the Act because he was a Jones Act seaman; 2) whether Claimant must repay Employer's Section 33 lien that was triggered by his recovery under the Jones Act; and 3) whether Claimant forfeited his entitlement to Longshore benefits pursuant to Section 33(g) because he settled his third-party claim without Employer's consent. *See* 33 U.S.C. §933; 46 U.S.C. §30104. The ALJ found Claimant did not actually file a claim under the Act and therefore the ALJ lacked jurisdiction to answer any of these questions. Thus, the ALJ dismissed the claim. Employer appealed. Employer and Claimant subsequently resolved their issues through settlement, prompting Employer's Motion for Remand. Employer argues the Director's motion essentially asks the Board to decide the merits of the claim, despite the settlement.

¹ Employer also submitted a Motion for Oral Argument.

Despite Employer's identification of its Motion for Remand as unopposed, the body of the Motion itself indicates it obtained only Claimant's consent, even though both the Director, as party-in-interest, and Homeport, as intervenor, had appeared and submitted briefs. Consequently, the Board's reliance on the asserted unopposed nature of Employer's motion was misplaced. We therefore grant the Director's Motion for Reconsideration and vacate the Board's remand order. 20 C.F.R. §§802.407(a), 802.409.

Nevertheless, Employer's has more recently filed an Uncontested Motion to Withdraw its Appeal pursuant to 20 C.F.R. §802.401(a), submitted on July 16, 2026. No party has responded to or opposed this motion. 20 C.F.R. §802.219(e). Consequently, we grant it.

Accordingly, we grant the Director's Motion for Reconsideration and vacate the Board's remand order, and we grant Employer's motion and dismiss its appeal, BRB No. 24-0458, with prejudice. 20 C.F.R. §§802.401(a), 802.409.

SO ORDERED.

JONATHAN ROLFE, Acting Chief
Administrative Appeals Judge

DANIEL T. GRESH
Administrative Appeals Judge

GLENN E. ULMER
Administrative Appeals Judge