TEODORO BENIGNO	)	BRB No. 15-0030
	)	Case No. 2012-LHC-01924
	)	OWCP No. 15-053525
	)	
	)	
DUKE KEALAKAI	)	BRB No. 15-0031
	)	Case No. 2012-LHC-01932
	)	OWCP No. 15-048767
	)	
	)	
DENNIS MELLO	)	BRB No. 15-0032
	)	Case No. 2012-LHC-1923
	)	OWCP No. 15-053893
	)	
	)	
BRIAN NAKACHI	)	BRB No. 15-0033
	)	Case No. 2012-LHC-1934
	)	OWCP No. 15-051521
	)	
	)	
	)	BRB No. 15-0034
HUGH SAFFERY	)	Case No. 2012-LHC-1698
	)	OWCP No. 15-053526
Claimants-Respondents	)	
	)	
v.	)	
	)	
YOUNG BROTHERS, LTD	)	
	)	
Employer-Petitioner	)	DATE ISSUED: Dec. 4, 2014
	)	
DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR	)	
	)	
Party-in-Interest	)	ORDER

By notices of appeal dated October 27, 2014, employer timely appeals the Order Denying Summary Decision and Granting Summary Adjudication of Issue and the Order

Denying Motion for Certification For Interlocutory Appeal of Administrative Law Judge Steven B. Berlin in the five captioned cases. 33 U.S.C. §921(b); 20 C.F.R. §802.205. We hereby acknowledge these appeals and assign the following docket numbers: Benigno, BRB No. 15-0030; Kealakai, BRB No. 15-0031; Mello, BRB No. 15-0032; Nakachi, BRB No. 15-0033; and Saffery, BRB No. 15-0034. 20 C.F.R. §802.210. All correspondence relating to these appeals must bear these numbers.

Employer's appeals are of the administrative law judge's interlocutory orders. The Board ordinarily does not entertain appeals of non-final orders so as to avoid piecemeal review. *See, e.g., Arjona v. Interport Maintenance*, 24 BRBS 222 (1991). The United States Supreme Court has articulated a three-pronged test to determine whether an order that does not finally resolve litigation is nonetheless appealable under the Federal Rules of Civil Procedure. First, the order must conclusively determine the disputed question. Secondly, the order must resolve an important issue which is completely separate from the merits of the action. Third, the order must be effectively unreviewable on appeal from a final judgment. *Gulfstream Aerospace Corp. v. Mayacamas Corp*., 485 U.S. 271 (1988) ("collateral order doctrine"). While the Board is not bound by the formal or technical rules of procedure governing litigation in federal courts, *see* 33 U.S.C. §923(a), it has relied on the Federal Rules of Civil Procedure for guidance where the Act and its regulations are silent. *See generally Sprague v. Director, OWCP*, 688 F.2d 862, 869 n.16, 15 BRBS 11, 21 n.16(CRT) (1st Cir. 1982). Thus, where the order appealed from does not satisfy the aforementioned three-pronged test, the Board ordinarily will not grant interlocutory review, unless, in its discretion, the Board finds it necessary to properly direct the course of the adjudicatory process. *See Pensado v. L-3 Communications Corp.,* 48 BRBS 37 (2014); *Baroumes v. Eagle Marine Services*, 23 BRBS 80 (1989).

We dismiss employer's appeals. The collateral order doctrine is inapplicable as the administrative law judge's order denying employer's motion for summary decision is not a collateral order. *Hudnall v. Jacksonville Shipyards*, 17 BRBS 174 (1985). The administrative law judge denied employer's motion for summary decision on an issue involving the merits of claimants' claims; specifically, the administrative law judge determined that employer incorrectly asserted that he lacks the authority to adjudicate claimants' claims of discrimination pursuant to Section 49 of the Act, 33 U.S.C. §948a, because the terms of a collective bargaining agreement are at issue. Moreover, it is not necessary for the Board to direct the course of the adjudicatory process; there is no stalemate in the proceedings that necessitate interlocutory action or piecemeal review by the Board. *See, e.g., Pensado,* 48 BRBS 37; *Baroumes,* 23 BRBS 80. The administrative law judge found claimants' legal theory of recovery to be invalid and he granted employer's motion for summary decision on that issue. The administrative law judge gave each claimant 45 days in which to amend his claim, noting that hearings on the claims had not yet been scheduled. In the event that any of the claimants' claims go

forward, and employer is aggrieved after the administrative law judge issues a final decision and order, employer may file an appeal of any of the administrative law judge's interlocutory orders within 30 days of the date the final decision and order is filed by the district director. 33 U.S.C. §921(a), (b); *J.T. [Tracy] v. Global Int'l Offshore, Ltd*., 43 BRBS 92, 96 n.13 (2009), *aff'd sub nom. Keller Found./Case Found. v. Tracy*, 696 F.3d 835, 46 BRBS 69(CRT) (9th Cir. 2012), *cert. denied*, 133 S.Ct. 2825 (2013).

Accordingly, employer's appeals in the five captioned cases are dismissed.

SO ORDERED.

_____
BETTY JEAN HALL, Acting Chief
Administrative Appeals Judge

_____
REGINA C. McGRANERY
Administrative Appeals Judge

_____
JUDITH S. BOGGS
Administrative Appeals Judge