



BRB No. 16-0486  
Case No. 2015-LDA-00030  
OWCP No. 02-233683

MARIA JORDAN	)	
	)	
Claimant-Petitioner	)	
	)	
v.	)	
	)	DATE ISSUED: <u>June 28, 2016</u>
DYNCORP INTERNATIONAL, LLC	)	
	)	
Employer-Respondent	)	
	)	
and	)	
	)	
CONTINENTAL CASUALTY COMPANY	)	
	)	
Carrier-Respondent	)	ORDER

The Board acknowledges receipt of claimant’s timely notices of appeal, filed May 10, 2016 and June 13, 2016, of Orders of Administrative Law Judge Larry S. Merck (2015-LDA-00030).<sup>1</sup> 33 U.S.C. §921(a); 20 C.F.R. §§802.205, 802.210, 802.221. These appeals are assigned the Board’s docket number BRB No. 16-0486.

---

<sup>1</sup> Claimant is appealing Judge Merck’s: (1) Order of April 8, 2016, in which Judge Merck denied three of claimant’s motions for sanctions and forbade claimant’s counsel from filing additional frivolous motions for sanctions on issues on which he had already ruled; (2) Order of April 11, 2016, in which Judge Merck denied claimant’s motion for reconsideration of prior orders and claimant’s request for subpoenas until claimant complies with orders of the court; (3) Order of April 19, 2016, in which Judge Merck denied claimant’s motion for sanctions; and (4) Order of May 4, 2016, in which Judge Merck denied four of claimant’s partial motions for summary decision. Claimant’s notice of appeal dated June 13, 2016 references the administrative law judge’s Order dated May 24, 2016, but the issues she claims to be appealing are contained in the April 11, 2016 Order, from which claimant appealed on May 10, 2016.

We dismiss claimant's appeal. Claimant's appeal is of interlocutory orders of the administrative law judge and claimant has not established any basis for the Board to engage in piecemeal review in this case.<sup>2</sup> See, e.g., *Newton v. P & O Ports Louisiana, Inc.*, 38 BRBS 23 (2004); *Tignor v. Newport News Shipbuilding & Dry Dock Co.*, 29 BRBS 135 (1995); *Butler v. Ingalls Shipbuilding, Inc.*, 28 BRBS 114 (1994). Claimant's counsel is once again advised that the administrative law judge has the authority to issue orders directing the pre-hearing process, compelling claimant's participation in discovery, and reviewing documents *in camera*. 33 U.S.C. §§923(a), 927(a);<sup>3</sup> *Goicochea*

---

<sup>2</sup> In Orders dated December 4, 2015 and March 7, 2016, the Board previously dismissed five interlocutory appeals filed by claimant in BRB Nos. 15-0518, 16-0117, 16-0139, 16-0190 and 16-0231. Claimant's motion for reconsideration was denied by Board Order dated May 4, 2016. In its March 7, 2016 Order, the Board informed claimant that additional interlocutory appeals would be summarily dismissed unless they clearly warranted immediate review by the Board. The appeals of Judge Merck's Orders do not meet any test for interlocutory review. *Hartley v. Jacksonville Shipyards, Inc.*, 28 BRBS 100 (1994).

<sup>3</sup> In this respect, we note that the administrative law judge, in his April 11, 2016 Order, afforded claimant's counsel 30 days in which to comply with specifically enumerated discovery requests in order to avoid the administrative law judge's certification of facts to the United States District Court pursuant to Section 27(b) of the Act, 33 U.S.C. §927(b), which states:

If any person in proceedings before [an administrative law judge] disobeys or resists any lawful order or process, or misbehaves during a hearing or so near the place thereof as to obstruct the same, or neglects to produce, after having been ordered to do so, any pertinent book, paper, or document, or refuses to appear after having been subpoenaed, or upon appearing refuses to take the oath as a witness, or after having taken the oath refuses to be examined according to law, the [administrative law judge] shall certify the facts to the district court having jurisdiction in the place in which he is sitting (or to the United States District Court for the District of Columbia if he is sitting in such district) which shall thereupon in a summary manner hear the evidence as to the acts complained of, and if the evidence so warrants, punish such person in the same manner and to the same extent as for a contempt committed before the court, or commit such person upon the same conditions as if the doing of the forbidden act had occurred with reference to the process of or in the presence of the court.

An order certifying facts to a district court is not appealable to the Board. *A-Z Int'l v. Phillips*, 179 F.3d 1187, 33 BRBS 59(CRT) (9<sup>th</sup> Cir. 1999).

*v. Wards Cove Packing Co.*, 37 BRBS 4 (2003); *Olsen v. Triple A Machine Shops, Inc.*, 25 BRBS 40 (1991), *aff'd mem. sub nom. Olsen v. Director, OWCP*, 996 F.2d 1226 (9<sup>th</sup> Cir. 1993); 29 C.F.R. §§18.50-18.51 (2015). Moreover, the denial of a motion for partial summary decision is not reviewable on an interlocutory basis. *Suydam v. Reed Stenhouse of Washington, Inc.*, 820 F.2d 1506 (9<sup>th</sup> Cir. 1987); *Oppenheimer v. Los Angeles County Flood Control Dist.*, 453 F.2d 895 (9<sup>th</sup> Cir. 1972); *Green v. Ingalls Shipbuilding, Inc.*, 29 BRBS 81 (1995); *Hudnall v. Jacksonville Shipyards*, 17 BRBS 174 (1985); *Holmes & Narver, Inc. v. Christian*, 1 BRBS 85 (1974).

Accordingly, claimant's appeals of Judge Merck's Orders are dismissed.

SO ORDERED.

---

JUDITH S. BOGGS  
Administrative Appeals Judge

---

RYAN GILLIGAN  
Administrative Appeals Judge

---

JONATHAN ROLFE  
Administrative Appeals Judge