

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

MARVIN STOVALL, *Applicant*

vs.

SOUTHERN CALIFORNIA GAS COMPANY, *Defendant*

**Adjudication Numbers: ADJ10010283, ADJ9334624, ADJ14068278
Marina del Rey District Office**

**OPINION AND ORDER
DENYING PETITION
FOR REMOVAL**

We have considered the allegations of the Petition for Removal and the contents of the report of the workers' compensation administrative law judge (WCJ) with respect thereto. Based on our review of the record, and based upon the WCJ's analysis of the merits of petitioner's arguments in the WCJ's report, we will deny removal.

Contrary to the WCJ, we find defendant's petition timely. The WCJ issued separate Minute Orders taking these matters off calendar on April 8, 2021. The Electronic Adjudication Management System (EAMS) reflects that a Petition for Removal was filed on May 3, 2021. However, the document identified as EAMS Doc ID No. 36541154 contains only defense counsel's May 3, 2021 cover letter and not a Petition for Removal. On May 7, 2021, applicant filed an Answer addressing the substantive issues raised by defendant's petition. On May 18, 2021, the WCJ issue a Report and Recommendation on Petition for Removal asserting that no Petition for Removal had been filed. On June 2, 2021, defendant filed a Petition for Removal dated May 3, 2021, along with a May 3, 2021 proof of service, and a copy of the EAMS submission eform noting Batch ID No. 34685808 and indicating a filing date of May 3, 2021. Based on the evidence submitted by defendant, we will treat the Petition for Removal as timely.

Nevertheless, removal is an extraordinary remedy rarely exercised by the Appeals Board. (*Cortez v. Workers' Comp. Appeals Bd.* (2006) 136 Cal.App.4th 596, 599, fn. 5 [71

Cal.Comp.Cases 155]; *Kleemann v. Workers' Comp. Appeals Bd.* (2005) 127 Cal.App.4th 274, 280, fn. 2 [70 Cal.Comp.Cases 133].) The Appeals Board will grant removal only if the petitioner shows that substantial prejudice or irreparable harm will result if removal is not granted. (Cal. Code Regs., tit. 8, former § 10843(a), now § 10955(a) (eff. Jan. 1, 2020); see also *Cortez, supra*; *Kleemann, supra*.) Also, the petitioner must demonstrate that reconsideration will not be an adequate remedy if a final decision adverse to the petitioner ultimately issues. (Cal. Code Regs., tit. 8, former § 10843(a), now § 10955(a) (eff. Jan. 1, 2020).) Here, based upon the WCJ's analysis of the merits of petitioner's arguments, we are not persuaded that substantial prejudice or irreparable harm will result if removal is denied and/or that reconsideration will not be an adequate remedy if the matter ultimately proceeds to a final decision adverse to petitioner.

For the foregoing reasons,

IT IS ORDERED that the Petition for Removal is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ MARGUERITE SWEENEY, COMMISSIONER

/s/ JOSÉ H. RAZO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

July 12, 2021

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

**LESTER FRIEDMAN
MARVIN STOVALL
MICHAEL MANSFIELD**

PAG:acw

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