

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

EDGAR DOMINGUEZ, *Applicant*

vs.

**COUNTY OF LOS ANGELES/HIGH DESERT MEDICAL CENTER,
Permissibly Self-Insured, *Defendants***

**Adjudication Numbers: ADJ2612538 (VNO 0504631), ADJ2023245 (VNO 0430620)
Van Nuys 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.

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, § 10955(a); 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, § 10955(a).) 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.

We acknowledge applicant's allegation that the parties were engaged in settlement discussions and that the substance of those discussions obviates the need for the vocational evaluation now at issue. However, postures adopted in settlement negotiations are not binding on

the parties until an agreement is reached, and settlement discussions in and of themselves do not render further discovery unnecessary or inappropriate. While we encourage the parties to continue to negotiate, under the circumstances here, preparation for trial and completion of discovery should also be accomplished forthwith in order to move the case toward ultimate resolution by settlement or by adjudication at trial.

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/ JOSEPH V. CAPURRO, COMMISSIONER

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

March 7, 2023

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

**EDGAR DOMINGUEZ
GLAUBER BERENSON VEGO
COUNTY COUNSEL**

AS/ara

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