

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

KATHY LEJAY, *Applicant*

vs.

**PROMISE HOSPITAL; PENNSYLVANIA MANUFACTURERS
ASSOCIATION INSURANCE COMPANY, ADMINISTERED BY
PMA COMPANIES, ROSEVILLE, *Defendants***

**Adjudication Number: ADJ12612435
Long Beach 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, 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.

Finally, we admonish defense attorney Jane Ramirez with the law firm of Colantoni, Collins, Marren, Phillips & Tulk for using offensive, inappropriate, and disrespectful language in

the Petition for Reconsideration. (See Lab. Code, § 5813; see also Cal. Code Regs., tit. 8, former § 10561(b)(9)(B), now § 10421(b)(9)(B) (eff. Jan. 1, 2020) [sanctionable conduct includes “using any language in any pleading or other document [...] [w]here the language or gesture impugns the integrity of the Workers’ Compensation Appeals Board or its commissioners, judges, or staff”].) We specifically refer to the assertions the WCJ inappropriately assisted the applicant such as those found at pages 8:14, 9:18, and the last full paragraph on page 13. The failure to comply with the WCAB’s rules in the future may lead to the imposition of sanctions.

For the foregoing reasons,

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

WORKERS’ COMPENSATION APPEALS BOARD

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER

I CONCUR,

/s/ PATRICIA A. GARCIA, DEPUTY COMMISSIONER

/s/ DEIDRA E. LOWE, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

September 27, 2021

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

**KATHY LEJAY
JACOB BORENSTEIN
COLANTONI COLLINS**

PAG:acw

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