

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

**LILIANA C. IZDREA, *Applicant***

**vs.**

**ALLIED UNIVERSAL SECURITY;  
ESIS WEST CLAIMS, *Defendants***

**Adjudication Numbers: ADJ15024673; ADJ12990134;  
ADJ12990141; ADJ12176188; ADJ11074578**

**Anaheim District Office**

**OPINION AND ORDER  
DENYING PETITION FOR  
REMOVAL AND  
DISQUALIFICATION**

We have considered the allegations of the Petition for Removal and Disqualification 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 for the reasons stated in the WCJ's report, which we adopt and incorporate, we will deny the Petition for Removal and Disqualification.

For the foregoing reasons,

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

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER**

**I CONCUR,**

**/s/ JOSÉ H. RAZO, COMMISSIONER**

**/s/ CRAIG SNELLINGS, COMMISSIONER**



**DATED AND FILED AT SAN FRANCISCO, CALIFORNIA**

**March 11, 2024**

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

**LILIANA C. IZDREA, IN PRO PER  
FAMIGLIETTI & VOLPE**

**AS/mc**

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

**REPORT AND RECOMMENDATION ON  
“PETITION FOR REMOVAL”/DISQUALIFICATION**

**I. INTRODUCTION**

On July 28, 2023, Applicant, in pro per, filed a “Petition for Removal”, being treated as a Petition for Disqualification asking that the undersigned WCJ be disqualified from hearing this case any further and asking that the undersigned WCJ be replaced by Hon. Howard Lemberg.

**II. STATEMENT OF FACTS**

Applicant Liliana Izdrea has five cases filed at the Anaheim District Office of the Workers’ Compensation Appeals Board. The within case has been assigned to the undersigned as the conference judge; ADJ12990134 and ADJ12990141 have been assigned to Hon. Howard Lemberg as the conference judge; ADJ12176188 has been assigned to Hon. Howard Lemberg as the trial judge; and ADJ11074758 had been assigned to Hon. John Cyprien as the trial judge. Of the five cases filed at the Anaheim District Office of the Workers’ Compensation Appeals Board, four remain active. Applicant is/was in pro per on all cases.

The parties appeared telephonically before the undersigned for a Status Conference on April 13, 2023 based on a Declaration of Readiness to Proceed filed by the defendant which outlined the issues as follows:

DEFENDANT SENT A PANEL REQUEST IN NEUROLOGY TO THE DWC. THE DWC DISMISSED THE PANEL REQUEST BECUASE (sic) OPHTHALMOLOGY PANEL HAD ISSUED ON A PRIOR DOI. APPLICANT IS IN PRO PER AND RECORDS HAVE BEEN SUBPOENAED FOR PQME EXAMS IN OPHTHALMOLOGY AND NEUROLOGY. BOARD ASSISTANCE IS REQUESTED FOR ORDER FOR NEW PANELS IN OPHTHALMOLOGY AND NEUROLOGY TO ADVANCE THIS PROPER CASE TOWARDS RESOLUTION. (See Declaration of Readiness to Proceed, EAMS Doc ID 45685991.)

The Minutes of Hearing from the Status Conference are noted as follows:

DA req Neuro QME panel w/wrong claim #. TT agreed Neuro appropriate for this DOI. DA will req Panel in Neuro w/correct cl #. TT advised to contact I & A if she has Q re: panel./needs help. TT confirmed mailing address on OAR is correct. (See Minutes of Hearing, EAMS Doc ID 76636830.)

On July 25, 2023, defendant filed a Declaration of Readiness to Proceed to another Status Conference outlining the issues as follows:

APPLICANT WAS SCHEDULED TO BE EVALUATED BY OPHTHALMOLOGY PQME DR. SHEETY ON 7/20/23. APPLICANT WAS LATE TO THIS APPOINTMENT AND WAS TOLD THAT THE DOCTOR WOULD NOT BE ABLE TO SEE HER AT THAT TIME AND SHE WOULD NEED TO RESCHEDULE. APPLICANT INDICATED THAT DUE TO THIS AND OTHER COMMUNICATION ISSUES FROM THE DOCTOR AND HIS OFFICE STAFF, SHE IS UNWILLING TO BE EVALUATED BY THIS DOCTOR AS THE PQME IN OPHTHALMOLOGY. APPLICANT HAS REQUESTED TO SET AN APPOINTMENT WITH ANOTHER PQME ON THE INITIAL PANEL OR THAT A REPLACEMENT PANEL WOULD ISSUE. BOARD ASSISTANCE IS REQUESTED TO RESOLVE THIS ISSUE. SEE ATTACHED CORRESPONDENCE (EXHIBITS). (*See Declaration of Readiness to Proceed, EAMS Doc ID 47419445.*)

On July 26, 2023, the Workers' Compensation Appeals Board served its Notice of Hearing advising that the within case was scheduled for a Status Conference to be conducted telephonically before the undersigned WCJ on August 17, 2023. Apparently aggrieved that the undersigned is the assigned conference judge, applicant filed her "Petition for Removal" which is actually a Petition to disqualify the undersigned.

### **III. DISCUSSION**

Pursuant to Labor Code § 5311:

Any party to the proceeding may object to the reference of the proceeding to a particular workers' compensation judge upon any one or more of the grounds specified in [§] 641 of the Code of Civil Procedure and the objection shall be heard and disposed of by the appeals board. Affidavits may be read and witnesses examined as to the objections. (Labor Code § 5311.)

Code of Civil Procedure § 641 sets forth the grounds for objection. Among the grounds for disqualification under section 641 are that the WCJ has demonstrated "[t]he existence of a state of mind ... evincing enmity against or bias toward either party" (Code Civ. Proc., § 641(g)).

A statement charging bias or prejudice by a WCJ must set forth specific details on which the charge is predicated and must present specific evidence of bias or prejudice to support the disqualification of a judge and shall be filed no more than 10 days after having notice of the facts

that might warrant disqualification. (Cal. Code of Regs., tit. 8, § 10452; *Mackie v. Dyer* (1957) 154 Cal. App. 2d 395, 399; *Colindres v. Kor Realty Group/Sheraton Gateway Hotel* (2008) 2008 Cal. Wrk. Comp. P.D. LEXIS 73, 8 (Appeals Board noteworthy panel decision).)

While the reasonable appearance of bias may support disqualification, a party's unilateral and subjective perception of bias does not afford a basis for disqualification. (*Haas v. County of San Bernardino* (2002) 27 Cal. 4th 1017, 1034; *Peluso v. Calgary Flames* (2017) 2017 Cal. Wrk. Comp. P.D. LEXIS 376, 13 (Appeals Board noteworthy panel decision) (“Bias and prejudice are never implied and must be established by clear averments.”).) The standard to be used is that of a reasonable person. (*Robbins v. Sharp Healthcare* (2006) 71 Cal. Camp. Cases 1291, 1307 (Appeals Board significant panel decision).) Therefore, the expressions of opinion uttered by a WCJ, in what the WCJ conceives to be a discharge of official duties or erroneous rulings against a litigant, even when numerous and continuous, cannot be grounds for a charge of bias or prejudice, especially when they are subject to review. (*Kreling v. Superior Court* (1944) 25 Cal. 2d 305, 312; *McEwen v. Occidental Life Ins. Co.* (1916) 172 Cal. 6, 11; *Perry v. S2 HR Solutions ID, LLC* (2019) 2019 Cal. Wrk. Comp. P.D. LEXIS 107, \*3-5 (Appeals Board noteworthy panel decision).)

Under WCAB Rule 10960, proceedings to disqualify a WCJ “shall be initiated by the filing of a petition for disqualification supported by an affidavit or declaration under penalty of perjury stating in detail facts establishing one or more of the grounds for disqualification ... .” (Cal. Code Regs., tit. 8, § 10960.) WCAB Rule 10960 further provides that when the WCJ and “the grounds for disqualification” are known, a petition for disqualification “shall be filed not more than 10 days after service of notice of hearing or after grounds for disqualification are known.” (Cal. Code Regs., tit. 8, § 10960.)

Applicant alleges that this WCJ evidenced bias against her during a telephonic Status Conference conducted on April 13, 2023. Applicant’s “Petition for Removal”/Disqualification was not filed until July 28, 2023. Applicant’s Petition is untimely. More importantly however, applicant failed to articulate any facts to demonstrate that the undersigned WCJ harbors any bias against her so as to warrant disqualification.

To be clear, the undersigned WCJ harbors no enmity or bias against the Applicant.

As a final note of import, as the assigned conference judge the undersigned WCJ will NOT be the assigned trial judge. In the interim, there are remedies available to the applicant if she remains aggrieved by any rulings made by this WCJ at the conference level,

**IV. RECOMMENDATION**

Based on the foregoing, the undersigned WCJ respectfully recommends that Applicant's "Petition for Removal"/Disqualification dated July 28, 2023 be **DENIED**.

DATE: August 8, 2023

**Stefanie Ashton**  
WORKERS' COMPENSATION JUDGE