

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

JESSICA HARTNETT, *Applicant*

vs.

**COUNTY OF KERN, permissibly self-insured, self-administered;
STATE OF CALIFORNIA, DEPARTMENT OF CORRECTIONS,
legally uninsured, administered by STATE COMPENSATION INSURANCE
FUND/STATE CONTRACT SERVICES, Adjusting Agency, *Defendants***

**Adjudication Number: ADJ17263528
Van Nuys District Office**

**OPINION AND ORDER
DISMISSING PETITION
FOR REMOVAL**

Defendant, SCIF, has filed a petition for removal from the order of joinder issued on October 15, 2024, by the workers' compensation administrative law judge (WCJ).

Defendant contends that joinder was not appropriate because defendant had not received service of the petition for joinder.

We have not received an answer from applicant. The WCJ filed a Report and Recommendation on Petition for Removal (Report) recommending that we deny removal.

We have considered the allegations of the Petition for Removal and the contents of the WCJ's Report. Based on our review of the record we will dismiss the Petition for Removal so that the WCJ can treat it as a petition to set aside the joinder and set it for a hearing.

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.

Decisions of the Appeals Board "must be based on admitted evidence in the record." (*Hamilton v. Lockheed Corporation (Hamilton)* (2001) 66 Cal.Comp.Cases 473, 476 (Appeals Board en banc).) Furthermore, decisions of the Appeals Board must be supported by substantial evidence. (Lab. Code, §§ 5903, 5952(d); *Lamb v. Workmen's Comp. Appeals Bd.* (1974) 11 Cal.3d 274 [39 Cal.Comp.Cases 310]; *Garza v. Workmen's Comp. Appeals Bd.* (1970) 3 Cal.3d 312 [35 Cal.Comp.Cases 500]; *LeVesque v. Workmen's Comp. Appeals Bd.* (1970) 1 Cal.3d 627 [35 Cal.Comp.Cases 16].) An adequate and complete record is necessary to understand the basis for the WCJ's decision. (Lab. Code, § 5313; see also Cal. Code Regs., tit. 8, § 10761.)

Here, the petition for joinder, which is filed in EAMS contains a proof of service indicating service upon both CDCR and SCIF. On the record before us, defendant's joinder appears appropriate.

To the extent that defendant argues that the proof of service is incorrect or that joinder is otherwise improper, and pursuant to Labor Code section 5803, the Appeals Board has continuing jurisdiction over all of its "orders, decisions, and awards." Accordingly, we treat defendant's Petition for Removal as a petition to set aside the joinder. The WCJ may then set a hearing on such a petition and create a record. The WCJ can then consider the evidence and the legal arguments raised by the parties and determine whether defendant's joinder is appropriate.

We do not address the merits of defendant's petition at this time as there is no record from which can determine whether defendant's joinder is proper.

Accordingly, we dismiss the Petition for Removal so that the WCJ can consider it as a petition to set aside the joinder.

For the foregoing reasons,

IT IS ORDERED that defendant's Petition for Removal from the order of joinder issued on October 15, 2024, by the WCJ is **DISMISSED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ CRAIG L. SNELLINGS, COMMISSIONER

/s/ KATHERINE A. ZALEWSKI, CHAIR



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

OCTOBER 7, 2025

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

**JESSICA HARTNETT
COUNTY OF KERN, STATE OF CALIFORNIA COUNTY COUNSEL
THE BRIDGEMORE LAW OFFICE
STATE COMPENSATION INSURANCE FUND**

EDL/mt

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