

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

JESUS BARRIGA, *Applicant*

vs.

**CHARLES S. CRABTREE PAINTING, INC., PALOMAR SPECIALTY INSURANCE
COMPANY, adjusted by OMAHA NATIONAL GROUP; INSURANCE COMPANY OF
THE WEST, *Defendants***

**Adjudication Number: ADJ18352965
Redding District Office**

**OPINION AND ORDER
DISMISSING PETITION FOR
REMOVAL**

We have considered the allegations of the Petition for Removal, Applicant's Response, the Objection filed by co-defendants Charles S. Crabtree Painting, Inc., and Insurance Company of the West (ICW), and the contents of the Report of the workers' compensation administrative law judge (WCJ) with respect thereto. Based on our review of the record, the petition is untimely and will be dismissed.

I.

There are 25 days allowed within which to file a petition for removal from a "non-final" decision that has been served by mail upon an address in California. (Cal. Code Regs., tit. 8, §§ 10605(a)(1), 10955(a).) This time limit is extended to the next business day if the last day for filing falls on a weekend or holiday. (Cal. Code Regs., tit. 8, § 10600.) To be timely, however, a petition for removal must be *filed* with (i.e., received by) the WCAB within the time allowed; proof that the petition was mailed (posted) within that period is insufficient. (Cal. Code Regs., tit. 8, §§ 10615(b), 10940(a).)

The Petition in this matter challenges applicant's election to proceed against defendant ICW, which was made at the January 7, 2025 Mandatory Settlement Conference (MSC). "Omaha

National Insurance Company” filed its Petition on August 18, 2025. This was more than 25 days after the service, on January 29, 2025, of the January 7, 2025 Minutes of Hearing and beyond whatever extension of time, if any, the petitioner might have been entitled to under WCAB Rule 10600. (Cal. Code Regs., tit. 8, § 10600.) Thus, the petition is untimely and must be dismissed.

II.

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.

Thus, had the Petition been timely, we would have denied it on the merits for the reasons stated in the WCJ’s Report.

III.

Based on the pleadings submitted with respect to the Petition for Removal, the defendants in this matter are: Charles S. Crabtree Painting, Inc.; “Omaha National Insurance Company”; and ICW. Yet, according to the Electronic Adjudication Management System (EAMS) and the Official Address Record (OAR), the defendants are: employer Charles S. Crabtree Painting, Inc.; claims administrator “Omaha National Underwriters Omaha”; and claims administrator “Insurance Co of the West San Diego.” No defendant is identified as an insurance company, and Palomar Specialty Insurance Company is not identified in any way.

Notably, it was defendant’s previous attorneys on behalf of “Palomar Specialty Insurance Company, adjusted by Omaha National Group” that petitioned to join ICW, and ICW was ordered joined as a party defendant on January 2, 2024. ICW is represented by attorney Glenn D. Olsen of Laughlin, Falbo, Levy & Moresi, and in the Response to the Petition, ICW is identified as an insurance company.

On August 5, 2025, attorney Matthew Waldron of Singerman Law, P.C., filed a substitution of attorneys naming “Omaha National Underwriters Omaha” as his client. On August 6, 2025, he filed a Notice of Representation, indicating that he represented “Defendant, OMAHA NATIONAL UNDERWRTIERS [*sic*] OMAHA.” Mr. Waldron filed the Petition for Removal on the same date, on behalf of “Omaha National Insurance Company.”

We remind Mr. Olsen and Mr. Waldron that under WCAB Rule 10390, all parties must provide their full legal name on all pleadings and at any appearance, including the names of the employer, insurance company and any third-party administrator and must “not identify a third party administrator as a party.” (Cal. Code Regs., tit. 8, § 10390; See also: *Coldiron v. Compuware Corp.* (2002) 67 Cal.Comp.Cases 289 (Appeals Board en banc) [failure to correctly identify client may subject the offending party to sanctions]; *DiFusco v. Hands on Spa* (2025) 90 Cal.Comp.Cases __; 2025 Cal. Wrk. Comp. Lexis 42 (Appeals Board en banc).)

Here, Mr. Olsen has failed to ensure that the OAR reflects that ICW is an insurance company, and not a claims administrator, and this oversight must be corrected forthwith. (See *DiFusco, supra.*)

More significantly, Mr. Waldron has failed to comply with the mandatory duty to correctly identify his client and this conduct is subject to sanctions. (Lab. Code, § 5813; Cal. Code Regs., tit. 8, § 10421; see *DiFusco, supra.*) Mr. Waldron is urged to correct the record forthwith so as to avoid the imposition of sanctions.

Accordingly, we will dismiss the petition.

For the foregoing reasons,

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

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ JOSEPH V. CAPURRO, COMMISSIONER

/s/ PAUL F. KELLY, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

NOVEMBER 6, 2025

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

**JESUS BARRIGA
HARO LAW, INC.
SINGERMAN LAW
LAUGHLIN, FALBO, LEVY & MORESI**

MB/ara

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