

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

RAYMOND ROCHA, *Applicant*

vs.

SMART AND FINAL COMMERCE DISTRIBUTION COMPANY LLC, permissibly self-insured, administered by SEDGWICK CMS, et al., *Defendants*

**Adjudication Number: ADJ20572451
Van Nuys District Office**

**OPINION AND ORDER
GRANTING PETITION
FOR REMOVAL
AND DECISION AFTER
REMOVAL**

Defendant has filed a petition for removal from the Order Joining Party Defendant issued on July 16, 2025, by the workers' compensation administrative law judge (WCJ).

Defendant contends that its joinder is not appropriate.

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 grant removal and as our Decision After Removal, we will rescind the July 16, 2025, Order Joining Party Defendant and return this matter to the trial level to create a record.

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).)

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 WCJ ordered defendant joined; however, the WCJ did so without providing a notice of intent, nor providing a hearing. The order violates the parties right to due process, which constitutes irreparable harm. Furthermore, no record supports the order. Thus, removal is proper in this case.

We make no judgment at this time whether defendant’s joinder is warranted since without a record available to review, we have no ability to make this determination.

Accordingly, we grant removal and as our Decision After Removal, we rescind the Order Joining Party Defendant issued on July 16, 2025 and return this matter to the trial level to create a record.

For the foregoing reasons,

IT IS ORDERED that defendant’s Petition for Removal from the Order Joining Party Defendant issued on July 16, 2025 by the WCJ is **GRANTED**.

IT IS FURTHER ORDERED as the Decision After Removal of the Workers’ Compensation Appeals Board that the Order Joining Party Defendant issued on July 16, 2025 by the WCJ is **RESCINDED**.

IT IS FURTHER ORDERED that this matter is RETURNED to the trial level for further proceedings.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ PAUL F. KELLY, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

November 4, 2025

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

**RAYMOND ROCHA
DIETZ GILMOR & CHAZEN
LAW OFFICES OF ROBERT OZERAN LAW
LAW OFFICE OF ROSA WILLIAMS**

EDL/mt

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