

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

JESS CARABAJAL, *Applicant*

vs.

**YELLOW CORP.; OLD REPUBLIC INS. CO.,
administered by SEDGWICK CMS, *Defendants***

**Adjudication Number: ADJ20406289
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 denying petition for joinder issued on April 10, 2026, by the workers' compensation administrative law judge (WCJ).

Defendant contends that removal is appropriate to join other potential employers into applicant's cumulative injury pleading.

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 order denying petition for joinder issued on April 10, 2026 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).) Here, the WCJ denied defendant's petition for joinder. The trial judge issued this order without creating a record and thus, the order violates the parties right to due process, which constitutes irreparable harm. Thus, removal is proper in this case.

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, defendant is entitled to a hearing on its petition for joinder. We make no judgment at this time whether joinder is warranted since without a formal 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 April 10, 2026 order denying petition for joinder 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 denying petition for joinder issued on April 10, 2026, by the WCJ is **GRANTED**.

IT IS FURTHER ORDERED as the Decision After Removal of the Workers' Compensation Appeals Board that the order denying petition for joinder issued on April 10, 2026, by the WCJ is **RESCINDED**.

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

JUNE 9, 2026

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

**JESS CARABAJAL
MICHAEL BURGIS & ASSOCIATES
LLARENA, MURDOCK, LOPEZ & AZIZAD, APC**

EDL/mt

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