

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

JOHN THOMPSON, *Applicant*

vs.

**VALLEJO CITY UNIFIED SCHOOL DISTRICT, permissibly self-insured,
administered by NORTH BAY SCHOOLS INSURANCE AUTHORITY;
STATE OF CALIFORNIA IHSS, legally uninsured,
administered by INTERCARE, *Defendants***

**Adjudication Numbers: ADJ10384508; ADJ11521546
Oakland District Office**

**OPINION AND ORDER
DENYING PETITION
FOR REMOVAL**

We have considered the allegations of the Petition for Removal 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 based upon the WCJ's analysis of the merits of petitioner's arguments in the WCJ's report, we will deny removal.

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).) 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, § 10787.) “It is the responsibility of the parties and the WCJ to ensure that the record is complete when a case is submitted for decision on the record. At a minimum, the record must contain, in properly organized form, the issues submitted for decision, the admissions and stipulations of the parties, and admitted evidence.” (*Hamilton, supra*, 66 Cal.Comp.Cases at p. 475.) “For the opinion on decision to be meaningful, the WCJ must refer with specificity to an adequate and completely developed record.” (*Id.* at p. 476 (citing *Evans v. Workmen’s Comp. Appeals Bd.* (1968) 68 Cal. 2d 753, 755 [33 Cal.Comp.Cases 350]).) The very foundation of *Hamilton* is premised on the requirement that the WCJ create a record so that the matter is capable of review by the Appeals Board, and if the record is insufficient and further development of the record is appropriate, a record must be created to that effect.

Here, as explained in the WCJ’s Report, defendant will have an opportunity to raise its arguments with respect to the agreed medical evaluator and further discovery with the trial WCJ. At that time, the trial WCJ can create a record and admit evidence with respect to the issue and any other issues, including other defendants and further development of the record.

To the extent that defendant raises any issues as to the WCJ’s impartiality, those concerns are properly raised in a petition for disqualification, and we do not consider them.

Accordingly, we deny the Petition for Removal.

For the foregoing reasons,

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

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ JOSÉ H. RAZO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

JUNE 4, 2026

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

**JOHN THOMPSON
BOXER & GERSON
COLEMAN CHAVEZ & ASSOCIATES LLP
COLANTONI, COLLINS, MARREN, PHILLIPS & TULK, LLP
LAW OFFICES OF CRYSTAL CUNNINGHAM**

AS/mc

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