

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

VICTOR SAMUEL XAMBA SOC, *Applicant*

vs.

KADAMI ENTERPRISES LP; EMPLOYERS ASSURANCE COMPANY, *Defendants*

**Adjudication Numbers: ADJ12061993; ADJ12061994
Santa Rosa District Office**

**OPINION AND ORDER
DISMISSING PETITIONS
FOR REMOVAL**

Defendant seeks removal of a ruling by the workers' compensation administrative law judge (WCJ) sustaining an objection at applicant's deposition on October 11, 2021. Defendant contends that they are entitled to compel applicant to answer questions concerning any social security numbers used for work purposes.

The WCJ prepared a Report and Recommendation on Petition for Removal (Report I) In the Report, issued on November 30, 2021, the WCJ addressed defendant's contentions and stated that the Petition for Removal was premature. On December 6, 2021 Applicant filed a Petition for Removal of the Report, arguing that the Report contained new orders. Applicant did not specifically identify any new orders. The WCJ issued a second Report and Recommendation on Petition for Removal (Report II) in response to applicant's petition.

On January 7, 2022, applicant filed a second Petition for Removal from the off-calendar status of the priority conference. On January 12, 2022, applicant filed a third Petition for Removal. Applicant also filed a Declaration of Readiness to Proceed and defendant filed objections to both the Petitions for Removal and the Declarations of Readiness to Proceed.

We have considered the allegations of the Petition for Removal and the content of the WCJ's Reports. Based on our review of the record, we will dismiss defendant's petition because it is premature. We will dismiss applicant's petitions because they are untimely and premature.

It is important to note that the October 11, 2021 deposition transcript has not been placed in evidence. From the pleadings and the Reports, we can ascertain that the WCJ sustained an

objection to a question based on applicant's constitutional privilege against self-incrimination. However, the record does not include a discovery order by the WCJ that would be subject to removal. Therefore, defendant's petition is premature.

Contrary to applicant's assertion in applicant's first Petition for Removal, the WCJ did not include new orders potentially subject to removal in Report I. As the WCJ discussed in Report II, to the extent the applicant is seeking removal of potential orders issued on October 11, 2021, applicant's petitions for removal are untimely in addition to being premature.

For the foregoing reasons,

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

IT IS FURTHER ORDERED that the Petitions for Removal filed by applicant are **DISMISSED**.

WORKERS' COMPENSATION APPEALS BOARD.

/s/ DEIDRA E. LOWE, COMMISSIONER

I CONCUR,

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

/s/ KATHERINE A. ZALEWSKI, CHAIR



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

FEBRUARY 15, 2022

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

**LAW OFFICES OF KENNETH MARTINSON
TOBIN LUCKS
VICTOR SAMUEL XAMBA SOC**

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