

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

SONIA DEL CARMEN QUIJANO, *Applicant*

vs.

**PRIMARY COLOR SYSTEM CORP.; STARSTONE NATIONAL INS. CO.,
administered by ENSTAR ADMINISTRATORS, *Defendants***

**Adjudication Number: ADJ14228796
Van Nuys District Office**

**OPINION AND ORDER
DENYING PETITION
FOR REMOVAL**

Defendant seeks removal in response to an Order issued by the workers' compensation administrative law judge (WCJ) during a Mandatory Settlement Conference held on May 19, 2022, wherein the WCJ denied defendant's request to conduct additional discovery and instead set the case for trial.

Defendant asserts that the setting of trial will cause it to suffer substantial prejudice and irreparable harm as defendant's current counsel needs additional time to review the case file and to determine whether a deposition of the case's Panel Qualified Medical Evaluator may be required.

We received a response from applicant. The WCJ filed a Report and Recommendation on Petition for Removal, recommending that we deny defendant's Petition for Removal because defendant will not suffer significant prejudice or irreparable harm.

We have considered the allegations of the Petition for Removal and the contents of the report of the WCJ with respect thereto. Based on our review of the record, and based upon the WCJ's analysis of the merits of defendant'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 defendant'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 defendant.

We note that defendant may state its case for additional discovery at trial. If the WCJ determines that development of the record is warranted, they can address it at the time of hearing.

For the foregoing reasons,

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

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

/s/ KATHERINE A. ZALEWSKI, CHAIR



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

September 7, 2022

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

**FIGAREDO LAW
NEWHOUSE & CREAGER
SONIA DEL CARMEN QUIJANO**

AH/oo

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