

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

MAGDALENO TELLEZ, *Applicant*

vs.

**M & M FARM LABOR, INC.; CARE WEST INSURANCE COMPANY,
administered by CORVEL CORPORATION, *Defendants***

**Adjudication Number: ADJ15116331
Van Nuys 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.

According to the minutes of hearing of March 9, 2023, the case is currently set on the issues of applicant's entitlement to additional qualified medical evaluator (QME) panels and to temporary disability. While the parties have the ability to raise issues with the WCJ at the time of trial,

including discovery closure, based on the record before us, it appears the closure of discovery should be limited to the pending issues of applicant's requests for additional panels and for temporary disability benefits.

For the foregoing reasons,

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

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

APRIL 6, 2023

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

**MAGDALENO TELLEZ
LAW OFFICE OF SCOTT A. SCHWARTZ
DABBAH HADDAD SULEIMAN**

AS/ara

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