

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

THOMAS BERG, *Applicant*

vs.

**PLUMAS COUNTY SUPERIOR COURT, Permissibly Self-Insured,
Adjusted by SEDGWICK CMS, *Defendants***

**Adjudication Number: ADJ15121416
Redding 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.

We acknowledge applicant's attorney's contention that the WCJ denied his request to create a record of the disagreement between counsel. When parties resolve disputes amicably, the legal system functions more efficiently, and we encourage the parties here to work together when possible. However, if a party believes that an opposing party has engaged in improper conduct,

the proper avenue is by way of a petition for sanctions. (Lab. Code, § 5813; Cal. Code Regs., tit. 8, § 10421.)

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/ JOSÉ H. RAZO, COMMISSIONER

/s/ CRAIG SNELLINGS, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

March 8, 2023

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

**THOMAS BERG
LAW OFFICES OF DUDLEY R. PHENIX
HANNA, BROPHY, MACLEAN, MCALEER & JENSEN, LLP
BOEHM & ASSOCIATES**

AS/ara

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