

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

TODD DAVIDSON, *Applicant*

vs.

**PACIFIC PETROLEUM CALIFORNIA, INC.;
COACTION INSURANCE CO. AKA
NEW YORK MARINE AND GENERAL INSURANCE CO.,
adjusted by LWP CLAIMS SOLUTIONS INC., *Defendants***

Adjudication Number: ADJ16333630

Santa Barbara 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.

Defendant seeks removal in response to the order setting the matter for trial on the grounds that it will be significantly prejudiced if the matter proceeds to trial on the current record and that the record requires further development. According to the Pre-trial Conference Statement of August 28, 2023, defendant raised the issue of proceeding to trial on the issue of temporary disability as “there is a pending supplemental report from ortho/QME Dr. Keith Robertson.” We note that the issue of further development of the record and any other relevant issues may be raised with the WCJ at the time of trial.

For the foregoing reasons,

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

WORKERS’ COMPENSATION APPEALS BOARD

/s/ CRAIG SNELLINGS, COMMISSIONER

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

/s/ KATHERINE A. ZALEWSKI, CHAIR



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

December 1, 2023

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

**TODD DAVIDSON
STOUT, KAUFINAN, HOLZMAN & SPRAGUE APLC
COLEMAN CHAVEZ & ASSOCIATES LLP**

AS/mc

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