

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

ANGELINA WILLIAMS, *Applicant*

vs.

SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP, permissibly self-insured, adjusted by SEDGWICK CMS, *Defendants*

**Adjudication Number: ADJ17626681
Van Nuys District Office**

**OPINION AND ORDER
DENYING PETITION
FOR REMOVAL**

Defendant has filed a petition for removal from the order setting the matter for trial issued on May 21, 2025, by the workers' compensation administrative law judge (WCJ).

Defendant contends that discovery is not completed and that the judge erred by allowing discovery to remain open prior to trial.

We have received an Answer from applicant. The WCJ filed a Report and Recommendation on Petition for Removal (Report) recommending that we deny removal.

We have considered the allegations of the Petition for Removal, the Answer, and the contents of the WCJ's Report. 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. The provision in WCAB 10955(a) that states that a petitioner "must demonstrate that reconsideration will not be an adequate remedy after the issuance of a final order, decision or award" means that the petitioner must demonstrate that a failure to grant removal at this stage of the case will impair or extinguish their right to challenge the issue on reconsideration, an extremely high bar. By the same token, we note that if a person does not seek removal in response to a non-final order, they are not waiving their right to challenge that order at the time of trial and they are not waiving their right to challenge that order by way of a petition for reconsideration once they receive a final order, decision or award.

Decisions of the Appeals Board "must be based on admitted evidence in the record." (*Hamilton v. Lockheed Corporation (Hamilton)* (2001) 66 Cal.Comp.Cases 473, 476 (Appeals Board en banc).) Furthermore, decisions of the Appeals Board must be supported by substantial evidence. (Lab. Code, §§ 5903, 5952(d); *Lamb v. Workmen's Comp. Appeals Bd.* (1974) 11 Cal.3d 274 [39 Cal.Comp.Cases 310]; *Garza v. Workmen's Comp. Appeals Bd.* (1970) 3 Cal.3d 312 [35 Cal.Comp.Cases 500]; *LeVesque v. Workmen's Comp. Appeals Bd.* (1970) 1 Cal.3d 627 [35 Cal.Comp.Cases 16].) An adequate and complete record is necessary to understand the basis for the WCJ's decision. (Lab. Code, § 5313; see also Cal. Code Regs., tit. 8, § 10761.)

Here, once the parties proceed to trial, they will have an opportunity to create a record, raise all relevant issues, and submit evidence. Specifically, as part of that process, the parties will have an opportunity to raise the issue of whether further development of the record is appropriate. The trial WCJ can then consider the evidence and the legal arguments raised by the parties and determine how best to proceed.

We make no judgment at this time whether additional discovery is warranted since without a formal record available to review, we have no ability to make this determination. Under the circumstances here, the issue of whether there should be further discovery should be raised with the trial WCJ in the first instance. Then, defendant has preserved their objection, and it can be raised as a basis for a petition for reconsideration if defendant does not prevail.

Accordingly, we deny removal.

For the foregoing reasons,

IT IS ORDERED that defendant's Petition for Removal from the order setting the matter for trial issued on May 21, 2025, by the WCJ is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

/s/ CRAIG SNELLINGS, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

SEPTEMBER 25, 2025

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

**ANGELINA WILLIAMS
LAW FIRM OF ROWEN, GURVEY & WIN
NOGALES PSYCHOLOGICAL COUNSELING
MICHAEL SULLIVAN & ASSOCIATES**

EDL/mt

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