

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

JESUS RUBIO, *Applicant*

vs.

**CALPORTLAND COMPANY;
MITSUI SUMITOMO
administered by CORVEL, *Defendants***

**Adjudication Numbers: ADJ11911958; ADJ11506199
San Luis Obispo 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 applicant'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 applicant'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 applicant.

Under WCAB Rule 10955(d) (Cal. Code Regs., tit. 8, § 10955(d)), if the WCJ rescinds the decision within 15 days of the filing of a petition for removal, the petition for removal is deemed automatically dismissed and no further action by the Appeals Board is required. Here, applicant filed the first petition for removal on May 8, 2025, and the WCJ vacated the order on May 13, 2025. Thus, we need not address the first petition for removal, as it deemed dismissed.

For the foregoing reasons,

IT IS ORDERED that the Petition for Removal filed by applicant on June 2, 2025 is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

I CONCUR,

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER

/s/ JOSEPH V. CAPURRO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

JUNE 24, 2025

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

**JESUS RUBIO
LAW OFFICES OF JOSEPH E. LOUNSBURY
HITZKE & FERRAN**

AS/mc

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