

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

AMY STACY BOSKO, *Applicant* v. LEARNING CARE GROUP, *Defendant*

ELSIE GONZALES, *Applicant* v. COCA COLA ENTERPRISES, *Defendant*

MARILYN LONZANIDA, *Applicant* v. IHSS SOLANO COUNTY, *Defendant*

RAY DUNHAMS, *Applicant* v. AC TRANSIT, *Defendant*

KUCHITA HAWTHORNE, *Applicant* v. UPS, *Defendant*

**Adjudication Numbers: ADJ6772495 (BOSKO); ADJ7394371 (GONZALES);
ADJ11006855 (LONZANIDA); ADJ7648530 (DUNHAMS);
ADJ6788916 (HAWTHORNE)**

Oakland District Office

**OPINION AND ORDER
DENYING PETITION
FOR REMOVAL**

Applicants Amy Stacy Bosko (ADJ6772495), Elsie Gonzales (ADJ7394371), Marilyn Lonzanida (ADJ11006855), Ray Dunhams (ADJ7648530) and Kuchita Hawthorne (ADJ6788916) filed a joint Petition for Removal in response to a WCJ's July 13, 2022 orders in their five individual cases that "applicant's petition to set the matter on a non-OD-Legal block day is denied"; and that "applicant's petition to terminate all OD-Legal Block days at the Oakland District Office is denied as the WCJ lacks authority to grant said relief."

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. Petitioners have filed supplemental pleadings and have requested permission to do so. We accept the pleadings and have considered them. (Cal. Code Regs., tit. 8, § 10964.) Based on our review of the record and based upon the WCJ's analysis of the merits of petitioners' 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).)

Preliminarily, we observe that the Appeals Board is vested with full authority to determine its rules of procedure and practice, which apply to workers' compensation administrative law judges as well as to the Appeals Board, and is not constrained by either the common law or the statutory rules of evidence except where specifically referenced. (*Dennis v. State of California* (2020) 85 Cal.Comp.Cases 389, 396 (Appeals Board en banc); Lab. Code, §§ 5307–10; 5500.3.) Labor Code section 5700 states in pertinent part that: “The hearing on the application may be adjourned from time to time and from place to place in the discretion of the appeals board or the workers' compensation judge holding the hearing.”

While the Appeals Board has the ultimate statutory authority to regulate the adjudication process, with respect to the scheduling of hearings, through the WCAB Rules, the Appeals Board delegates authority to the district office. Specifically, WCAB Rule 10346(a) states that: “(a) The presiding workers' compensation judge has full responsibility for the assignment of cases to the workers' compensation judges of each office and may utilize EAMS to assign cases.” (Cal. Code Regs., tit. 8, § 10346(a).)

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.)

WCAB Rule 10515 states that: “Demurrers, petitions for judgment on the pleadings and petitions for summary judgment are not permitted.” (Cal. Code Regs., tit. 8, § 10515.)

Here, petitioners seek intervention from the Appeals Board with respect to scheduling of hearings. As stated above, scheduling of hearings has been delegated to the district offices by way of the WCAB Rules. Moreover, petitioners seek a remedy based on the pleadings that they have submitted, which is not permitted under the WCAB Rules. Moreover, no record has been created that we would enable us to meaningfully address the merits of their arguments.

Thus, 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 petitioners.

Accordingly, we deny the Petition for Removal.

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/ CRAIG L. SNELLINGS, COMMISSIONER

/s/ PATRICIA A. GARCIA, DEPUTY COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

October 22, 2025

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

**AMY STACY BOSKO
ELSIE GONZALES
MARILYN LONZANIDA
RAY DUNHAMS
KUCHITA HAWTHORNE
MANGOSING LAW GROUP
MULLEN FILIPPI WALNUT CREEK
RAHN, MURPHY & YOUNG, LLP
COLEMAN, CHAVEZ & ASSOCIATES
LAUGHLIN FALBO LEVY & MORESI, LLP
LUNA, LEVERING & HOLMES
OFFICE OF THE DIRECTOR, LEGAL-OAKLAND**

AS/mc

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