

WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA

NIXON CORLETO, *Applicant*

vs.

FRISCO BAKING CO.;
COMPWEST INSURANCE COMPANY, *Defendants*

Adjudication Numbers: ADJ19889301, ADJ19889302, ADJ19889303, ADJ19889304
Los Angeles District Office

OPINION AND ORDER
DENYING PETITION
FOR REMOVAL

Applicant has filed a petition for removal from the order vacating the matter for trial and setting the issue for mandatory settlement conference issued on October 17, 2025, by the workers' compensation administrative law judge (WCJ).

Applicant contends that a WCJ is without power to control their courtroom calendar and that by operation of statute, whenever any party files for expedited hearing, the court is compelled to conduct an expedited hearing regardless of circumstance.

We have not received an Answer from defendant. The WCJ filed a Report and Recommendation on Petition for Removal (Report) recommending that we deny removal and consider the issue of sanctions.

We have considered the allegations of the Petition for Removal 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 and/or that reconsideration will not be an adequate remedy if the matter ultimately proceeds to a final decision adverse to petitioner.

This matter was set for trial, and the trial date has now been vacated due to applicant's counsel filing multiple petitions for removal. Any harm that exists in this case through delay is presently caused by applicant's own filings, which could be construed as frivolous.

Next, contrary to applicant's assertion, can we find no Labor Code provision that endows a party with the unilateral right to proceed to trial upon the filing of a declaration of readiness (DOR). To the contrary, the Labor Code is quite clear that the WCJ and the Appeals Board have *discretion* when setting a matter for trial: "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.**" (Lab. Code, § 5700.) There may be other cases where a WCJ abuses their discretion in continuing matters, but no abuse of discretion was shown here.

Furthermore, our review of the record appears to confirm what is written in the minutes of hearing, in that no party properly filed exhibits in this matter prior to the expedited hearing. Pursuant to WCAB Rule 10620: "Any document that a party proposes to offer into evidence at a trial shall be filed with the Workers' Compensation Appeals Board at least 20 days prior to the trial unless otherwise ordered by the Workers' Compensation Appeals Board." (Cal. Comp. Cases, tit. 8, § 10620.) To the extent that no party had filed any exhibits for the trial judge to review prior to the selected trial date, it would appear that the trial judge was well within their discretion to continue the matter.

As to the issue of sanctions, the WCJ notes that applicant has filed multiple petitions for removal in this matter, which could be construed as frivolous and/or bad faith conduct, which have delayed these proceedings. At this point, we would admonish applicant's attorney, Susan Garrett and hearing representative Lance Garrett, that the filing of frivolous and/or bad-faith petitions may warrant an order of sanctions and/or costs associated with the petitions. If such conduct persists, we may consider addressing the issue of sanctions anew.

Accordingly, we deny removal.

For the foregoing reasons,

IT IS ORDERED that applicant's Petition for Removal from the order vacating the matter for trial and setting the issue for mandatory settlement conference issued on October 17, 2025, by the WCJ is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ CRAIG L. SNELLINGS, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

December 31, 2025

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

**NIXON CORLETO
GARRETT LAW GROUP
SAPRA & NAVARRA LAW**

EDL/mt

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