

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

**TIANA JOHNSON, *Applicant***

**vs.**

**THE REGENTS OF THE UNIVERSITY OF  
CALIFORNIA IRVINE, SELF INSURED,  
ADMINISTERED BY SEDGWICK UC, *Defendants***

**Adjudication Number: ADJ16001585  
Anaheim District Office**

**OPINION AND ORDER  
DENYING PETITION  
FOR REMOVAL**

Applicant seeks removal in response to an Order continuing the matter for trial issued by the trial workers' compensation administrative law judge (WCJ) on July 8, 2024. Applicant contends that the WCJ:

deferred identifying what issues, including AOE/COE, would be heard until the day of trial. The Order is improper as (1) Applicant's attorney did not raise AOE/COE as an issue in their DOR nor indicate that discovery was complete, (2) it violates the applicant's due process rights by not identifying the issues to be litigated at trial and defense witnesses were not revealed until the date of the MSC despite prior requests, and (3) goes against public policy as it punishes the applicant for seeking the WCAB's assistance for a discovery issue.

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.

On May 29, 2024, the mandatory settlement WCJ issued an order setting the matter for trial. The Minutes from that hearing state that:

AA requested continuance to depose def. witness just disclosed or exclude def. witness. AA objects to trial setting. AA objects to discovery being closed on AOE/COE. **Issues for trial and any add'l discovery deferred to trial WCJ.** (Emphasis added.)

On July 8, 2024, the parties appeared before the trial WCJ, and the trial WCJ continued the matter to August 27, 2024. The parties did not go on the record, and the Minutes indicate that the WCJ ordered them to file trial briefs no later than August 20, 2024.

To the extent that the parties have not yet proceeded to trial, applicant's Petition could be considered premature and subject to dismissal. Nonetheless, if applicant's contention is that the WCJ should have proceeded on the record on July 8, 2024 to consider the discovery issues, applicant has not demonstrated substantial prejudice or irreparable harm. Once the parties ultimately proceed to trial, the parties will have an opportunity to create a record, identify all relevant issues, and submit evidence. Specifically, as part of that process, applicant 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.

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/ JOSÉ H. RAZO, COMMISSIONER**

**/s/ KATHERINE WILLIAMS DODD, COMMISSIONER**



**DATED AND FILED AT SAN FRANCISCO, CALIFORNIA**

**June 5, 2025**

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

**TIANA JOHNSON  
SILBERMAN & LAM, LLP  
LAW OFFICE OF JODIE P. FILKINS, A P.C.**

**AS/mc**

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