

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

ANGEL CORRALES, *Applicant*

vs.

SUBSEQUENT INJURIES BENEFITS TRUST FUND, *Defendant*

**Adjudication Number: ADJ14514363
Goleta District Office**

**OPINION AND ORDER
DISMISSING PETITION
FOR REMOVAL**

Applicant has filed a petition for removal from what applicant perceives to be inaction of the workers' compensation administrative law judge (WCJ) upon a filed Compromise and Release. Applicant identifies no order, decision, or action that has occurred in the case within the petition other than a claim of delay.

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. Applicant has filed a reply to the WCJ's Report, but failed to follow proper procedure to request permission to file a supplemental pleading. (Cal. Code Regs., tit. 8, § 10964.) Accordingly, we deny the request for supplemental petition.

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 we will dismiss the Petition for Removal as applicant has not been aggrieved by any order, decision, or action of the WCJ. We would further note that the C&R at issue in this matter was approved by the WCJ and thus we also dismiss the petition as moot.

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, no action of the WCJ occurred prior to applicant seeking removal. Applicant's request in this matter is to skip trial level review of a Compromise and Release and proceed directly to the Appeals Board. However, this is not possible.

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.) Any decision that occurs in this matter must first occur at the trial level with a proper record created.

In the WCJ's Report, she recommends consideration of the issue of sanctions. While applicant's petition in this matter could be construed as frivolous, this appears to be the first instance of such conduct and thus we will admonish attorneys Ricardo Agustin Perez (SBN: 297967) and Brian W. Freeman (SBN: 256439) that petitions for removal may only be filed in good faith and in response to an order, decision, or action of a workers' compensation judge. If applicant's counsel requires a decision of a WCJ, they should first consider writing to the judge as a matter of courtesy and requesting a status update on a pending issue. This is particularly true in a case where it appears that applicant's counsel misfiled the settlement in EAMS, which did not generate a review task, and thus, the parties were relying upon the WCJ to fix their filing error. Alternatively, they may request a hearing. However, they may not file a petition for removal with the Appeals Board to address *inaction*. Such petitions are frivolous and may warrant the imposition of sanctions.

The Compromise and Release is now approved and only the issue of a reasonable attorney's fee is pending, which makes the issues raised in the petition moot. The WCJ has requested guidance on the issue of a proper attorney's fee. Pursuant to WCAB Rule 10844:

In establishing a reasonable attorney's fee, the workers' compensation judge or arbitrator shall consider the:

- (a) Responsibility assumed by the attorney;
- (b) Care exercised in representing the applicant;
- (c) Time involved; and
- (d) Results obtained.

(Cal. Code Regs., tit. 8, § 10844.)

The Appeals Board cannot provide any further insight into this matter as there is no record to review. Furthermore, the issuance of advisory opinions is generally avoided. (*Neary v. Regents of Univ. of Calif.* (1992) 3 Cal.4th 273, 284.)

Accordingly, we dismiss the Petition for Removal.

For the foregoing reasons,

IT IS ORDERED that applicant's Petition for Removal filed on December 30, 2025, is **DISMISSED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ JOSEPH V. CAPURRO, COMMISSIONER

/s/ PAUL F. KELLY, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

March 20, 2026

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

ANGEL CORRALES

PEREZ LAW

OFFICE OF THE DIRECTOR – LEGAL UNIT (LOS ANGELES)

EDL/mt

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