

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

ISMAEL ROBLEDO, *Applicant*

vs.

**YELLOW CORPORATION; HOWMET AEROSPACE;
ACE AMERICAN INSURANCE COMPANY,
administered by HELMSMAN MANAGEMENT SERVICES, et al., *Defendants***

**Adjudication Number: ADJ19112130
Pomona District Office**

**OPINION AND ORDER
DENYING PETITION
FOR REMOVAL**

Defendant, Ace American Insurance Company, has filed a petition for removal from the “Order of Joinder of Party Defendant” issued on April 2, 2026, by the workers’ compensation administrative law judge (WCJ), which joined Ace American in these proceedings.

Defendant contends that it is not liable for applicant’s cumulative injury and thus its joinder was not proper.

We have not received an Answer from applicant. The WCJ filed a Report and Recommendation on Petition for Removal (Report) recommending that we deny removal.

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.

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.)

Defendant challenges its liability for cumulative injury in these proceedings, however, no record exists establishing any of the facts alleged in defendant's petition. Absent a stipulation of the parties, such an argument can only be decided after the matter proceeds to a trial on the merits. We make no judgment at this time as to the merits of defendant's petition as no record has been created.

We would further remind defendant that in workers' compensation proceedings: "Demurrers, petitions for judgment on the pleadings and petitions for summary judgment are not permitted." (Cal. Code Regs., tit. 8, § 10515.)

Accordingly, we deny removal.

For the foregoing reasons,

IT IS ORDERED that defendant's Petition for Removal from the "Order of Joinder of Party Defendant" issued on April 2, 2026, by the WCJ is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

PAUL F. KELLY, COMMISSIONER
CONCURRING NOT SIGNING



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

July 21, 2026

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

**ISMAEL ROBLEDO
BURGIS & ASSOCIATES
LLARENA MURDOCK
ALBERT AND MACKENZIE**

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*