

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

**AMY SHERRICK, *Applicant***

**vs.**

**MCCORMICK BARSTOW LLP;  
FEDERAL INSURANCE COMPANY, administered by CHUBB GROUP OF  
INSURANCE COMPANIES, *Defendants***

**Adjudication Numbers: ADJ10807013, ADJ10018404  
Fresno District Office**

**OPINION AND ORDER  
DISMISSING PETITION FOR  
REMOVAL**

Defendant seeks removal of the statement in the Minutes of Hearing (MOH) of the August 15, 2024 Status Conference, which indicates that “AA elects against Har[t]ford.”

In the Petition for Removal/Reconsideration (Petition)<sup>1</sup>, defendant contends that its due process rights were violated when the workers’ compensation administrative law judge (WCJ) issued the August 15, 2024 MOH, which included an election against Hartford, when Hartford is the defendant in only one of applicant’s two cases.

On September 4, 2024, the WCJ issued a Notice of Clarification of the August 15, 2024 Minute Order, in which the WCJ found that the election against Hartford is only applicable to case number ADJ10018404; that Hartford has no coverage in case number ADJ10807013; and that Federal Insurance Company administered by Chubb Group of Insurance Companies has coverage in case number ADJ10807013; and ordered that the MOH be corrected to reflect that applicant’s attorney’s election against Hartford is only applicable to case number ADJ10018404.

The WCJ issued a Report and Recommendation (Report) recommending that the Petition be denied. Applicant’s attorney did not file an Answer.

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<sup>1</sup> Although defendant’s petition is entitled “Petition for Removal/Reconsideration,” in the body of that document defendant indicates that it is only petitioning for removal. (Petition, at pp. 1-2, 6.) We will therefore treat the petition as a Petition for Removal.

We have considered the allegations in the Petition and the contents of WCJ's Report with respect thereto. Based on our review of the record, and for the reasons stated in the WCJ's Report, we will dismiss the Petition for Removal as moot pursuant to WCAB Rule 10955, subdivision (d) (Cal. Code Regs., tit. 8, § 10955(d)).

WCAB rule 10955 holds, in relevant part, that:

(d) A workers' compensation judge may, within 15 days of the filing of the petition for removal, rescind the order or decision in issue, or take action to resolve the issue raised in the petition. If the workers' compensation judge so acts, or if the petitioner withdraws the petition at any time, the petition for removal will be deemed automatically dismissed, requiring no further action by the Appeals Board. The issuance of a new order or decision, or the occurrence of a new action, will recommence the time period for filing a petition for removal as described above. (Cal. Code Regs., tit. 8, § 10955(d).)

Here, defendant's Petition was filed September 3, 2024. The following day, September 4, 2024, the WCJ issued a correction to the August 15, 2024 MOH. Since the WCJ took action to resolve the issue raised in the Petition within 15 days of the filing of the petition, consistent with the requirements of WCAB rule 10955, subdivision (d), the Petition for Removal is "deemed automatically dismissed, requiring no further action by the Appeals Board." (Cal. Code Regs., tit. 8, § 10955(d).) However, when a WCJ prepares a Report and transmits the matter to the Appeals Board, the Appeals Board considers the matter and must then issue a decision in response to the petition before the matter can proceed.

We will therefore dismiss the Petition for Removal.

For the foregoing reasons,

**IT IS ORDERED** that the Petition for Removal is **DISMISSED**.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ CRAIG SNELLINGS, COMMISSIONER**

**I CONCUR,**

**/s/ KATHERINE A. ZALEWSKI, CHAIR**

**/s/ JOSEPH V. CAPURRO, COMMISSIONER**



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

**November 4, 2024**

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

**AMY SHERRICK  
COLE FISHER  
GALE SUTOW & ASSOCIATES**

**MB/ara**

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