

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

DESSIRRE WOOLEN, *Applicant*

vs.

**LORAL LANDSCAPING, INC.;
SECURITY NATIONAL INSURANCE COMPANY,
administered by AMTRUST, *Defendants***

**Adjudication Numbers: ADJ16719000; ADJ16718990
San Francisco District Office**

**OPINION AND ORDER
DENYING PETITION
FOR REMOVAL**

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.

While the format for a scheduled deposition may be changed prior thereto based upon good cause, substantial prejudice or irreparable harm does not currently exist to overturn the WCJ's non-final order retaining the taking of applicant's deposition by Zoom versus in-person.

As stated in the WCJ's June 18, 2024 Minutes of Hearing (MOH) and Order, the employer has the right to be present at deposition but does not have a right to intimidate or harass an applicant. This includes the right for the employer to be present at applicant's video deposition.

If, during the video deposition of the applicant, such deposition discovery process proves to be unsatisfactory or otherwise untenable, either party may then request a hearing, at which time they can make a record and introduce evidence in support of their respective positions to alter the format of the deposition.

For the foregoing reasons,

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

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

KATHERINE A. ZALEWSKI, CHAIR
PARTICIPATING NOT SIGNING



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

August 20, 2024

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

**DESSIRRE WOOLEN
SULLIVAN, RIVERA, OSUNA & SULLIVAN
HANNA, BROPHY, MACLEAN, MCALEER & JENSEN**

LAS/abs

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