

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

**ALFREDO BARRERA FLORES, *Applicant***

**vs.**

**BV & CO.;  
EMPLOYERS PREFERRED INSURANCE COMPANY, *Defendants***

**Adjudication Number: ADJ13241358; ADJ13482817  
Van Nuys 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 for the reasons stated in the WCJ's report, which we adopt and incorporate, 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, for the reasons stated in the WCJ's report, 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.

For the foregoing reasons,

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

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER**

**I CONCUR,**

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

**/s/ CRAIG SNELLINGS, COMMISSIONER**



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

**March 12, 2025**

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

**ALFREDO BARRERA FLORES  
ALCALA ASSOCIATES  
TOBIN • LUCKS LLP**

**AS/mc**

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

**REPORT AND RECOMMENDATION OF**  
**WORKERS' COMPENSATION JUDGE ON**  
**PETITION FOR REMOVAL &**  
**TRANSMISSION OF THE CASES**  
**TO THE OFFICE OF THE COMMISSIONERS**

**I.**  
**INTRODUCTION**

Applicant, ALFREDO BARRERA FLORES, while employed as a making jewelry on April 1, 2019 (ADJ13241358) and during the period January 1, 2019 through February 6, 2020 (ADJ13482817) at La Verde, California by BODY VISION LOS ANGELES insured for workers' compensation by EMPLOYERS PREFERRED claims to have sustained an injury arising out of and occurring in the course of employment to his right shoulder (ADJ13241358) and hand, shoulder, neck and back (ADJ13482817). Applicant's case settled by joint compromise and release approved on July 23, 2021. Defendant filed a joint petition for consolidation on December 30, 2024 requesting consolidation of multiple cases involving lien claims from Joyce Altman Interpreters in the above matters. On January 28, 2025 the undersigned associate judge, after receiving delegated authority form the chief judge, denied the consolidation without prejudice as defendant failed to comply with *Title 8, Cal. Code of Regulations* section 10396(b)(3), (4). Defendant timely filed and verified a petition for removal from the undersigned judge's order denying consolidation but only filed the petition in ADJ13241358.

Defendant contends removal is appropriate as they will suffer significant prejudice and irreparable harm if they are required to comply with section 10396 (b)(3). They argue compliance with this section requires considerable resources to serve all parties in each case listed in Exhibit A to the consolidation; the only issue pending relates to Joyce Altman Interpreter's liens ("JAI"); and procedural due process was satisfied when the petition and attachment was served upon JAI.

## II.

### FACTS

Defendant filed a joint petition to consolidate cases in the above matters relating to liens from JAI in these and multiple other cases listed on twelve (12) pages in Exh. A to the petition. (*Alfredo Barrera Flores – 12-30-24-Petition for Order Consolidating Cases Pertaining to Joyce Altman Interpreters.pdf* EAMS Doc ID 55610752; *Alfredo Barrera Flores – Exb A to Petition for Order Consolidating Cases Pertaining to Joyce Altman Interpreters.pdf* EAMS Doc ID 55766795). The joint petition to consolidate cases shows service on JAI, her representative of record, Alcala Associates Los Angeles, Eric Salvado and Employers Preferred Insurance Company. (*Alfredo Barrera Flores – 1-9-25- POS EXB A to Petition for Order Consolidating Cases Pertaining to Joyce Altman Interpreters.pdf* EAMS Doc ID 55766796).

Defendant did not file the petition in, or serve all parties to, the cases listed on Exh. A. Since this is required pursuant to *Title 8, Cal. Code of Regs.* Section 10396(b)(3), (4), the undersigned judge denied the joint petition for consolidation without prejudice. Defendants were advised in the joint order that all parties in the cases listed in Exh. A needed to be served before any consolidation order would issue.

It is from this joint order denying consolidation without prejudice that defendant petitions for removal.

## III.

### DISCUSSION

Removal is an extraordinary remedy rarely exercised by the Appeals Board. *Cortez v. Workers' Comp. Appeals Bd.* (2006) 136 Cal. App. 4<sup>th</sup> 596, 600, fn. 5, [38 Cal. Rptr. 3d 922, 71 Cal. Comp. Cases 155, 157, fn. 5]; *Kleeman v. Workers' Comp. Appeals Bd.* (2005) 127 Cal. App. 4<sup>th</sup> 274, 281, fn. 2, [25 Cal. Rptr. 3d 448, 70 Cal. Comp. Cases 133, 136, fn. 2]. 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 of Regs., tit. 8, section 10955(a)*; see also *Cortez, supra*; *Kleeman, supra*.) The petitioner must also demonstrate that reconsideration will not be an adequate remedy if a final decision adverse to the petitioner ultimately issues. (*Cal. Code of Regs., tit. 8, section 10955(a)*.)

On pages 3-4 of Defendant's petition for removal they argue 8 CCR section 10625(a) and two separate panel decisions only require that affected parties, not all parties, be served with the petition. This is required to allow the affected party the right to be heard at a meaningful time and manner, (*Eloisa Becerra Quezada v. Marriott Hotel Servs.*, 2021 Cal. Wrk. Comp. P.D. LEXIS 50,\*5 *citations omitted*), and to afford the affected parties an opportunity to present their objections (*Adams v. New York Football Giants, Inc.*, 2008 Cal. Wrk. Comp. P.D. LEXIS 749, \*9 *citations omitted*).

As to Defendant's argument regarding section 10625(a), this argument ignores the last sentence of subsection (a) which states, "except as otherwise provided by these rules . . ." *Title 8, Cal. Code of Regs.*, section 10396(b)(3) and (4) provide additional requirements for service of a petition when requesting consolidation of cases in addition to the requirements in Title 8, Cal. Code of Regs. section 10625(a).

Defendant further states on page 4, lines 12-14 that the legislature could not have intended that every party receive service of the petition in this situation and that serving all parties in the cases listed in Exh. A would require Defendant to expend significant resources to do this. Since this is a WCAB rule, this judge followed the specific language in *Title 8, Cal. Code of Regs.*, section 10396 (b) which states:

A petition for consolidation shall:

- List all parties in each case;
- Contain the adjudication case number of all cases to be consolidated, with the lowest numbered case shown first;
- Be filed in each case sought to be consolidated; and
- Be served on all attorneys or non-attorney representatives of record and on all non- represented parties in each case sought to be consolidated.

Every case listed on Exh. A was not reviewed to determine the status of those cases, but the purpose of the requirement to serve all parties to each case to be consolidated is to allow those parties to object or assert their rights if they disagree with consolidating their case as part of a consolidation. This regulation should be followed as if it is not, then it would deny due process to multiple parties in the cases listed on Exh. A.

**IV.**

**RECOMMENDATION**

Based upon the above, it appearing Defendant did not show significant prejudice or irreparable harm and all parties are required to comply with the WCAB regulations as it relates to requesting consolidation of cases, it is the undersigned judge's recommendation that the Commissioners deny Defendant's Petition for Removal.

DATE: 02/11/2025

**Jamie Spitzer**

ASSOCIATE CHIEF JUDGE, SOUTH