

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

**BARRY VANHAUWE, *Applicant***

**vs.**

**NZXT, INC; BERKSHIRE HATHAWAY  
HOMESTATE INSURANCE COMPANY, *Defendants***

**Adjudication Number: ADJ17917974  
Pomona District Office**

**OPINION AND ORDER  
DENYING PETITION  
FOR REMOVAL**

Defendant seeks removal of the Order issued on January 9, 2025 by the workers' compensation administrative law judge (WCJ) setting this matter for trial.

Defendant contends that setting the matter for trial will result in significant prejudice and irreparable harm as the record requires additional qualified medical evaluators (QMEs) in the fields of neurology, psychology, psychiatry, internal medicine and dentistry. We have not received an Answer from applicant. We received a Report and Recommendation on Defendant's Petition for Removal (Report) from the WCJ, recommending that we deny removal.

We have considered the allegations of the Petition for Removal and the contents of the report of the WCJ with respect thereto. Based on our review of the record, 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 record, 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.

Defendant has raised the issue of incomplete discovery on the pre-trial conference statement (PTCS) filed on January 9, 2025. Thus, they have already preserved their issue for determination by the trial judge, who has discretion over whether additional discovery should be conducted, as the WCJ is in the best position to create a clear and complete record of the disputed issues, including whether good cause exists to permit additional discovery.

For the foregoing reasons,

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

**WORKERS' COMPENSATION APPEALS BOARD**

/s/ CRAIG SNELLINGS, COMMISSIONER

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

/s/ JOSEPH V. CAPURRO, COMMISSIONER



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

**April 14, 2025**

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

**BARRY VANHAUWE  
BURGIS AND ASSOCIATES  
DIETZ, GILMOR & CHAZEN**

**SL/abs**

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