

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

BRANDON WHITE, *Applicant*

vs.

**SACRAMENTO REGIONAL TRANSIT, permissibly self-insured, administered by
INTERCARE HOLDINGS INSURANCE SERVICES, INC., *Defendants***

**Adjudication Number: ADJ18756905
Sacramento District Office**

**OPINION AND ORDER
GRANTING PETITION
FOR REMOVAL
AND DECISION
AFTER REMOVAL**

Applicant has filed a petition for removal from the order compelling applicant's deposition issued on March 27, 2025, by the workers' compensation administrative law judge (WCJ).

Applicant contends that a further deposition is not warranted in this matter.

We have received an Answer from defendant. 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 we will grant removal and as our Decision After Removal, we will rescind the March 27, 2025, order compelling applicant's deposition and return this matter to the trial level to create a record.

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, the WCJ ordered applicant's deposition to proceed pursuant to defendant's petition to compel. The trial judge issued this order without creating a formal record and thus, the order violates the parties right to due process, which constitutes irreparable harm. Accordingly, removal is proper in this case.

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.)

Here, defendant has filed a petition to compel, to which applicant objects. Under such a scenario, and particularly when the party thereafter seeks appellate review, a formal record must exist supporting the order that issued. We make no judgment at this time whether applicant's deposition should proceed since without a formal record available to review, we have no ability to make this determination.

Accordingly, we grant removal and as our Decision After Removal, we rescind the order compelling applicant's deposition issued on March 27, 2025 and return this matter to the trial level to create a record.

For the foregoing reasons,

IT IS ORDERED that applicant's Petition for Removal from the order compelling applicant's deposition issued on March 27, 2025, by the WCJ is **GRANTED**.

IT IS FURTHER ORDERED as the Decision After Removal of the Workers' Compensation Appeals Board that the order taking the order compelling applicant's deposition issued on March 27, 2025, by the WCJ is **RESCINDED**.

IT IS FURTHER ORDERED that this matter is **RETURNED** to the trial level for further proceedings.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

/s/ CRAIG L. SNELLINGS, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

October 13, 2025

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

**BRANDON WHITE
ALBERT MACKENZIE LAW FRESNO
GLASS LAW WOODLAND HILLS**

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*