

WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

DANIEL PARTIDA, *Applicant*

vs.

**INTEGRATED DISTRUBUTION SYSTEM INC., dba DART ENTITIES;
AMERICAN ZURICH INSURANCE COMPANY, *Defendants***

**Adjudication Number: ADJ18655575
Santa Ana District Office**

**OPINION AND ORDER
DENYING PETITION
FOR REMOVAL**

Defendant has filed a petition for removal from the order taking the matter off calendar issued on October 15, 2024, by the workers' compensation administrative law judge (WCJ).

Defendant contends that applicant delayed five months in seeking an evaluation to address permanent disability, which constitutes waiver of applicant's objection, and thus the matter should proceed to trial on the present record.

We have not received an answer from applicant. 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 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, former § 10843(a), now § 10955(a) (eff. Jan. 1, 2020); 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, former § 10843(a), now § 10955(a) (eff. Jan. 1, 2020).) 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.

Labor Code section 4061 contains no provision establishing the time for which an objection must be made. (See *Benson v. City of San Diego*, 2012 Cal. Wrk. Comp. P.D. LEXIS 111.) While a party may be precluded from lodging a late objection based upon the doctrine of laches, such an argument requires the asserting party to establish prejudice because of the delay. (*Ibid.*) When analyzing such prejudice, we are looking at whether the passage of time has in some way altered a party's ability to proceed on the merits. (*Lam v. Bureau of Security & Investigative Services* (1995) 34 Cal.App.4th 29, 36 [40 Cal.Rptr.2d 137], citing *Brown v. State Personnel Bd.* (1985) 166 Cal.App.3d 1151, 1159 [213 Cal.Rptr. 53].) Based upon the facts alleged by defendant in its petition, defendant has not established that substantial prejudice or irreparable harm will result in proceeding on the present course of discovery.

Accordingly, we deny removal.

For the foregoing reasons,

IT IS ORDERED that defendant's Petition for Removal from the order taking the matter off calendar issued on October 15, 2024, by the WCJ is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ CRAIG SNELLINGS, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

JOSÉ H. RAZO, COMMISSIONER
CONCURRING NOT SIGNING



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

SEPTEMBER 24, 2025

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

**DANIEL PARTIDA
LAW OFFICES OF G. JOHN JANSEN
GOLDMAN MAGDALIN STRAATSMA**

EDL/mt

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