

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

DAVID SERRANO, *Applicant*

vs.

**STW CONTRACTORS, INC.;
BENCHMARK INSURANCE COMPANY, *Defendants***

**Adjudication Number: ADJ12379666
Fresno District Office**

**OPINION AND ORDER
DISMISSING PETITION
FOR REMOVAL**

Applicant has filed a petition for removal from the order taking the matter off calendar issued on August 19, 2024, by the workers' compensation administrative law judge (WCJ).

Applicant's petition is difficult to comprehend but it appears that applicant seeks a hearing upon multiple various issues.

We have not 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 and based upon the WCJ's analysis of the merits of petitioner's arguments in the WCJ's Report, we will dismiss removal.

The Petition does not indicate any proper basis upon which applicant seeks removal. The Petition includes an attachment, which contains numerous and varied complaints as to events that are alleged to have transpired in this case. However, the attachment fails to explain how any of these complaints are connected with the WCJ's order taking the matter off calendar. Without such argument, the petition fails to state grounds upon which removal can be granted, and thus, the petition will be dismissed.

However, even if we were to analyze applicant's petition on the merits, we would otherwise deny the petition as applicant failed to establish substantial prejudice or irreparable harm from the order taking the matter off calendar. 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, and as noted by the WCJ, applicant has a simple remedy in that he may file for another hearing so that he can raise the multiple complaints alleged in the petition for removal. However, applicant needs to participate in any subsequent hearing in good faith, which may require applicant to complete a pre-trial conference statement. Applicant may seek out the Information and Assistance officer for information on how to obtain a hearing and how to complete a pre-trial conference statement on any issues that applicant may wish to raise.

Accordingly, we dismiss the petition for removal.

For the foregoing reasons,

IT IS ORDERED that applicant's Petition for Removal from the order taking the matter off calendar issued on August 19, 2024, by the WCJ is **DISMISSED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ JOSÉ H. RAZO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

SEPTEMBER 29, 2025

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

**DAVID SERRANO
COLEMAN CHAVEZ LAW FIRM**

EDL/mt

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