

WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA

DUBERLI GONZALEZ MORENO, *Applicant*

vs.

**BEYOND RESOURCE SOLUTIONS, INC.; SUNZ INSURANCE COMPANY,
administered by NEXT LEVEL ADMINISTRATORS, *Defendants***

**Adjudication Numbers: ADJ18331703, ADJ18331705
Los Angeles District Office**

**OPINION AND ORDER
DENYING PETITION
FOR REMOVAL**

Applicant has filed a petition for removal from the order taking the matter off calendar issued on November 10, 2025, by the workers' compensation administrative law judge (WCJ).

Applicant contends that WCJ abused their discretion in ordering the matter off calendar and that the matter should have been set for trial.

We have not received an Answer from defendant. The WCJ filed a Report and Recommendation on Petition for Removal (Report) recommending that we dismiss or otherwise 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, 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 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. Petitioner may simply refile a declaration of readiness to proceed to set the matter for trial anew.

Per the minutes of hearing, the matter was ordered off calendar for the following reason:

JUDGE REPEATEDLY ADVISED PARTIES THEY NEEDED TO MEET AND CONFER WITH ONE ANOTHER BEFORE SPEAKING TO JUDGE ABOUT DISAGREED DISPO YET FAILED TO DO SO DESPITE AMPLE OPPORTUNITY FOR THIS. JUDGE FINDS NO GOOD CAUSE TO KEEP MATTER ON CALENDAR FOR A CONFERENCE IF PARTIES ARE UNWILLING TO CONFER AT A CONFERENCE. OFF CALENDAR ON WCJ'S MOTION OVER ANY OBJECTION

(Minutes of Hearing, November 10, 2025.)

Per WCAB Rule 10759: "The parties shall meet and confer prior to the mandatory settlement conference and, absent resolution of the dispute(s), the parties shall complete a joint Pre-Trial Conference Statement setting forth the issues and stipulations for trial, witnesses, and a list of exhibits by the close of the mandatory settlement conference." (Cal. Code Regs., tit. 8, § 10759(b).)

Notwithstanding the Rules of Practice and Procedure, as noted in a recent en banc opinion:

The workers' compensation system "was intended to afford a simple and nontechnical path to relief." (*Elkins v. Derby* (1974) 12 Cal.3d 410, 419 [39 Cal.Comp.Cases 624]; Cf. Cal. Const., art. XX, § 21; § 3201.) . . . "[I]t is an often-stated principle that the Act disfavors application of formalistic rules of procedure that would defeat an employee's entitlement to rehabilitation benefits." (*Martino v. Workers' Comp. Appeals Bd.* (2002) 103 Cal. App.4th 485, 490 [67 Cal.Comp.Cases 1273].)

(*Perez v. Chicago Dogs* (2025) 90 Cal. Comp. Cases 830, 838, (Appeals Board en banc).)

While the rule requiring the parties to meet and confer is important and should be followed, we would note that the rule itself does not compel the remedy of taking the matter off-calendar. We encourage the WCJ to consider alternative remedies in cases where application of Rule 10759(b) could lead to unnecessary delay.

We would further encourage any litigating parties who may have violated Rule 10759(b) to proceed with humility. A sincere apology with a promise to do better, combined with immediate efforts to rectify the error may be a more tactful approach when counsel fails to meet and confer.

Accordingly, we deny removal.

For the foregoing reasons,

IT IS ORDERED that applicant's Petition for Removal from the order taking the matter off calendar issued on November 10, 2025, by the WCJ is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ CRAIG L. SNELLINGS, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ JOSÉ H. RAZO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

December 24, 2025

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

**DUBERLI GONZALEZ MORENO
WCA LAW
DJG LAW GROUP**

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*