

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

GENIA CREWS, *Applicant*

vs.

**EMS TRAINING INSTITUTE; VALLEY FORGE INSURANCE COMPANY,
administered by CNA CLAIMS PLUS, *Defendants***

**Adjudication Numbers: ADJ10073615; ADJ10155571
Van Nuys District Office**

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

Defendant has filed a petition for removal from the “Finding and Order Re: Second QME Panel (Represented Case)” (F&O) issued on May 29, 2024, by the workers’ compensation administrative law judge (WCJ).

Defendant does not substantively challenge the need for an additional panel, but instead contends that the panel order issued in a case which was previously dismissed without prejudice.

We have received an Answer from applicant. The WCJ filed a Report and Recommendation on Petition for Removal (Report) recommending that we grant removal to correct the case number on the F&O, but otherwise return the matter to the trial level for further proceedings.

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 only to correct the case caption and as our Decision After Removal, we will amend the May 29, 2024 F&O to indicate that a new panel has issued in both case numbers. To the extent that defendant argues that ADJ10073615 was dismissed, we can find no order of dismissal in the Appeals Board’s record, and we will defer that issue 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 a new panel to issue in one of applicant's cases, however, the issue of psychological injury is pled in both cases, and thus the panel should have been issued as to both cases. We will amend the F&O accordingly.

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.)

Next, defendant argues that one of applicant's cases was dismissed without prejudice. While we could not find any order of dismissal in the record, we make no judgment at this time whether that case is dismissed 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 amend the May 29, 2024 F&O to indicate that a new panel has issued in both case numbers. All other issues are deferred.

For the foregoing reasons,

IT IS ORDERED that defendant's Petition for Removal from the "Finding and Order Re: Second QME Panel (Represented Case)" issued on May 29, 2024, by the WCJ is **GRANTED**.

IT IS FURTHER ORDERED as the Decision After Removal of the Workers' Compensation Appeals Board that the "Finding and Order Re: Second QME Panel (Represented Case)" (F&O) issued on May 29, 2024, by the WCJ is **AFFIRMED, EXCEPT THAT** the F&O is **AMENDED** to reflect that the panel is issued in both case number ADJ10073615 and ADJ10155571.

IT IS FURTHER ORDERED that all other issues are deferred and this matter is **RETURNED** to the trial level for further proceedings.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ CRAIG L. SNELLINGS, COMMISSIONER

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

October 10, 2025

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

**GENIA CREWS
ANDERSON CHANG BREA LAW
RUSSELL OLIVER LAW MEMPHIS
WARREN SIEDER LAW CALABASAS**

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*