

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

GERARDO HERNANDEZ GONZALEZ, *Applicant*

vs.

**FM RESTAURANTS HQ LLC, D.B.A. EL TORITO;
AIU INSURANCE COMPANY, administered by
GALLAGHER BASSETT SERVICES, INC., *Defendants***

**Adjudication Number: ADJ16660771
Los Angeles District Office**

**OPINION AND ORDER
DENYING PETITION
FOR REMOVAL**

We have considered the allegations of the Petition for Removal and the contents of the report of the workers' compensation administrative law judge (WCJ) with respect thereto. 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).)

In the Petition for Removal, applicant contends that further discovery is necessary before proceeding to trial. However, once the parties proceed to trial, the trial WCJ can consider the issue of whether further discovery is necessary. The trial WCJ can then consider evidence and the legal arguments raised by the parties and determine how best to proceed. Thus, we are not persuaded that substantial prejudice or irreparable harm will result if removal is denied.

Accordingly, we deny the Petition for Removal.

For the foregoing reasons,

IT IS ORDERED that the Petition for Removal is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

/s/ PAUL F. KELLY, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

JUNE 27, 2025

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

**GERARDO HERNANDEZ GONZALEZ
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AS/mc

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