

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

JULIA OZUNA, *Applicant*

vs.

NORTH OF THE RIVER RECREATION AND PARK DISTRICT, permissibly self-insured, administered by SEDGWICK CMS, *Defendants*

**Adjudication Number: ADJ16282930; ADJ17581359
Bakersfield District Office**

**OPINION AND ORDER
DENYING PETITION
FOR REMOVAL**

Defendant has filed a petition for removal¹ from the order taking the matter off calendar issued on December 11, 2024, by the workers' compensation administrative law judge (WCJ).

Defendant contends that a bifurcated trial is warranted and that the issue of its affirmative defense that applicant's psychological injury is barred pursuant to Labor Code section 3208.3(h) should proceed at this time.

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

¹ Defendant attached hundreds of pages of documents to the Petition for Removal in violation of WCAB Rule 10945(c)(3) (Cal. Code Regs., tit. 8, § 10945(c)(3)). We have not reviewed the attached documents and admonish defendant not to attach documents in violation of Rule 10945 in future petitions.

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.

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.)

In workers' compensation, the general rule is that all matters are submitted at a single trial. (Cal. Code Regs., tit. 8, § 10787(a).) However, it is within the discretion of a WCJ to bifurcate any issue if good cause is presented.

Here, defendant argues that its affirmative defense should be bifurcated and alleges that irreparable harm will occur because defendant has denied applicant's claim, which requires applicant to treat on a lien basis. Thus, defendant may incur greater liability should it ultimately lose on the issue. Given that a defendant is only liable for medical treatment that is reasonable and necessary to cure or relieve from the effects of the industrial injury, it is unclear how this argument could be true. Nevertheless, self-inflicted prejudice is not a compelling argument to warrant removal.

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 December 11, 2024, by the WCJ is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ CRAIG SNELLINGS, COMMISSIONER

/s/ JOSÉ H. RAZO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

SEPTEMBER 26, 2025

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

**JULIA OZUNA
HINDEN BRESLAVSKY LAW FIRM
MICHAEL SULLIVAN 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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