

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

MARIA FAUSTO, *Applicant*

vs.

**MM BAKERY PRODUCTS, INC.;
HANOVER INSURANCE GROUP, *Defendants***

**Adjudication Numbers: ADJ15039687
Oakland District Office**

**OPINION AND ORDER
DENYING PETITION
FOR REMOVAL**

Defendant has filed a petition for removal from the Order Denying Petition to Quash issued on January 31, 2025, by the workers' compensation administrative law judge (WCJ), which denied defendant's request to quash a subpoena from applicant for their own medical records.

Defendant contends that applicant did not demonstrate good cause to seek a copy of their medical file.¹

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.²

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 raises other technical arguments as to the validity of the subpoena. However, these arguments were not presented in the petition to quash and thus, we do not address them.

² Commissioner Sweeney, who was on the panel that issued a previous decision in this matter on September 21, 2022, no longer serves on the Appeals Board. Another panelist was appointed in her place.

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, defendant has not established substantial prejudice or irreparable harm if applicant is permitted to subpoena a copy of her own medical files. As noted by the WCJ, any issue as to whether such a cost is a reasonable litigation expense is deferred.

Accordingly, we deny removal.

For the foregoing reasons,

IT IS ORDERED that defendant's Petition for Removal from the January 31, 2025 Order Denying Petition to Quash issued by the WCJ is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ CRAIG L. SNELLINGS, COMMISSIONER

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

/s/ JOSEPH V. CAPURRO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

October 24, 2025

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

**MARIA FAUSTO
LAW OFFICES OF JOHN E. HILL
HANNA, BROPHY, MacLEAN, McALEER & JENSEN, LLP**

EDL/mc

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