

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

MARVIN GONZALEZ, *Applicant*

vs.

**SHINE ELECTRIC;
STATE COMPENSATION INSURANCE FUND, *Defendants***

**Adjudication Number: ADJ12635075
San Jose District Office**

**OPINION AND ORDER
DENYING PETITION
FOR REMOVAL**

Defendant has filed a petition for removal from the order compelling production issued on December 17, 2024, by the workers' compensation administrative law judge (WCJ).

Defendant contends that the materials ordered to be produced are protected by trade secret privilege.

We have received an Answer from applicant. The WCJ filed a Report and Recommendation on Petition for Removal (Report) recommending that we deny removal as the issue of whether production of documents was warranted was expressly set for hearing by the parties at the subsequent mandatory settlement conference.

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.

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.)

Here, the WCJ treated defendant's objection to the order compelling production as seeking to set it aside and set the matter for a hearing.

We admonish defendant, Lynnette Baclig (CA# 314924) and State Compensation Insurance Fund, that all of the issues raised in its Petition for Removal **were expressly set for a hearing**, which appears to make its filing wholly unnecessary, which could constitute frivolous or bad-faith conduct. Defendant may only file for removal when there is a good-faith, non-frivolous basis to allege irreparable harm or substantial prejudice.

Once the parties proceed to trial, they will have an opportunity to create a record, raise all relevant issues, and submit evidence. If an adverse ruling issues, defendant may then seek appropriate relief.

Accordingly, we deny removal.

For the foregoing reasons,

IT IS ORDERED that defendant's Petition for Removal from the order compelling production issued on December 17, 2024, by the WCJ is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER

I CONCUR,

/s/ CRAIG SNELLINGS, COMMISSIONER

/s/ JOSÉ H. RAZO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

SEPTEMBER 29, 2025

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

**MARVIN GONZALEZ
LAW OFFICES OF BO KATZAKIAN
LAW OFFICES OF GEORGE CORSON
STATE COMPENSATION INSURANCE FUND**

EDL/mt

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