

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

WESLEY RENTFROW, *Applicant*

vs.

**COUNTY OF MERCED, permissibly self-insured,
administered by PEGASUS RISK MANAGEMENT, *Defendants***

**Adjudication Number: ADJ8845585
Fresno District Office**

**OPINION AND ORDER
DENYING PETITION
FOR REMOVAL**

Defendant has filed a petition for removal from the order taking the matter off calendar issued on July 27, 2022, by the workers' compensation administrative law judge (WCJ).

Defendant contends that further discovery is not necessary.

We have 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, the Answer, 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.

We would further note that the issue now appears moot as no party has sought to set this matter for trial during the time the petition for removal has been pending. The petition for removal was filed in 2022. Defendant objects to the order taking the matter off calendar; however, in the three years following its petition, defendant has not taken any steps to place the matter back on calendar. A petition for removal does not halt proceedings at the trial level. (Cal. Code Regs., tit. 8, § 10955(e).) We presume that whatever additional discovery applicant sought is now complete and if the parties are unable to resolve their dispute, the matter appears ready for the WCJ to decide the issue. Either party may file the appropriate declaration of readiness to proceed (DOR).

In the future, and if the parties are prepared to proceed to trial notwithstanding a pending petition for removal, they may simply file a DOR along with a request to withdraw the petition for removal. To the extent that any party wishes to object to any exhibit obtained in the interim, they may simply raise their objection at trial. To the extent that defendant continues to object to the prior order taking the matter off calendar, they may reraise their objection at trial. Any aggrieved party may thereafter seek reconsideration.

Lastly, upon return the parties and the WCJ may wish to analyze whether the issue of reimbursement of COBRA premiums is a factual issue or whether it is a legal issue.

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 July 27, 2022, by the WCJ is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

I CONCUR,

/s/ JOSEPH V. CAPURRO, COMMISSIONER

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

OCTOBER 9, 2025

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

**WESLEY RENTFROW
MICHAEL SULLIVAN LAW FRESNO
THOMAS TUSAN LAW FRESNO
USCB AMERICA LAW LOS ANGELES**

EDL/mt

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