

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

**ARMINDA CORTEZ, *Applicant***

**vs.**

**EDWARD MILLER STELLA MILLER;  
UNINSURED EMPLOYERS BENEFITS TRUST FUND, *Defendants***

**Adjudication Number: ADJ3354072  
Pomona District Office**

**OPINION AND ORDER  
DENYING PETITION  
FOR REMOVAL**

Applicant has filed a petition for removal from the order taking the matter off calendar issued on January 13, 2026, by the workers' compensation administrative law judge (WCJ). The WCJ took the matter off calendar and allowed UEBTF thirty days to obtain a qualified medical evaluator panel. The WCJ instructed applicant to refile a DOR if no action was taken by UEBTF.

Applicant contends that UEBTF has not completed discovery in a timely manner and that further time for discovery is unwarranted.

We have not received an Answer from UEBTF. 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 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.)

As noted by the WCJ in the minutes, at this point in the proceedings, and assuming that UEBTF has not sought a QME evaluation, applicant may simply refile the DOR to get this case back onto the trial calendar. At the subsequent hearing, and if UEBTF has not proceeded with a QME evaluation, the parties may set the issue of whether UEBTF has waived the protections afforded by Labor Code section 4061(i) as an issue for trial and may create a record.

Accordingly, we deny removal.

For the foregoing reasons,

**IT IS ORDERED** that applicant's Petition for Removal from the order taking the matter off calendar (OTOC) issued on January 13, 2026, by the WCJ is **DENIED**.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ KATHERINE A. ZALEWSKI, CHAIR**

**I CONCUR,**

**/s/ JOSEPH V. CAPURRO, COMMISSIONER**

**/s/ PAUL F. KELLY, COMMISSIONER**



**DATED AND FILED AT SAN FRANCISCO, CALIFORNIA**

**JUNE 16, 2026**

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

**ARMINDA CORTEZ  
EDWARD MILLER STELLA MILLER  
PEREZ LAW  
OFFICE OF THE DIRECTOR LEGAL**

**EDL/mt**

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