

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

LEOPOLDO RAMIREZ, *Applicant*

vs.

**MCGEE CONTRACTING, INC. / BARRETT BUSINESS SERVICES, INC.;
ACE AMERICAN INSURANCE COMPANY, administered by CORVEL, *Defendants***

**Adjudication Numbers: ADJ16870990; ADJ16870549
Long Beach District Office**

**OPINION AND ORDER
DENYING PETITION
FOR REMOVAL**

Defendant has filed a petition for removal from the order setting the matter for trial issued on April 28, 2026, by the workers' compensation administrative law judge (WCJ).

Defendant contends that it should not have to proceed to a trial on the issue of sanctions because it has not engaged in sanctionable conduct.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.

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

¹ To the extent that defendant requests removal of the September 22, 2025 Notice of Intent to Impose Sanctions, defendant's petition is not timely, and we do not address that issue.

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, once the parties proceed to trial, they will have an opportunity to create a record, raise all relevant issues, and submit evidence. To the extent that defendant seeks summary judgment that it has not conducted sanctionable conduct, we remind defendant that in workers' compensation "[d]emurrers, petitions for judgment on the pleadings and petitions for summary judgment are not permitted." (Cal. Code Regs., tit. 8, § 10515.) Defendant's petition for removal borders upon a frivolous filing.

Defense counsel may wish to consider a different approach when responding to the possibility of sanctions. If counsel failed to properly file the required anti-fraud declaration under Labor Code section 4906, counsel may wish to sincerely apologize for their oversight, advise the court as to the procedures they have adopted to ensure that such oversight will not recur, and humbly request relief for their error.

Accordingly, we deny removal.

For the foregoing reasons,

IT IS ORDERED that defendant's Petition for Removal from the order setting the matter for trial issued on April 28, 2026, by the WCJ is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

PAUL F. KELLY, COMMISSIONER
CONCURRING NOT SIGNING



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

August 25, 2026

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

**LEOPOLDO RAMIREZ
LAW OFFICES OF DENNIS R. FUSI & ASSOCIATES
LAW OFFICES OF HEYWOOD G. FRIEDMAN
HANNA, BROPHY, MacLEAN, McALEER & JENSEN**

EDL/mt

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