

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

JAMES SCHUSTER, *Applicant*

vs.

**STATE OF CALIFORNIA, CDCR, HIGH DESERT STATE PRISON, legally uninsured,
adjusted by STATE COMPENSATION INSURANCE FUND, *Defendants***

**Adjudication Numbers: ADJ17216314; ADJ17216345
Redding District Office**

OPINION AND ORDER DENYING PETITION FOR REMOVAL

Defendant seeks removal of the Order Suspending Action on Stipulations With Request for Award (Order) issued on January 8, 2024, wherein the workers' compensation administrative law judge (WCJ) ordered that no action be taken on the parties' Stipulations With Request for Award (Stipulations) until it was amended to contain their "wet" or actual signatures.

Defendant contends that the Order violates Civil Code section 1633.7.

We did not receive an Answer.

The WCJ issued a Report and Recommendation on Petition for Removal (Report) recommending that the Petition be denied.

We have considered the allegations of the Petition and the contents of the Report. For the reasons stated below, 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 significant prejudice or irreparable harm will result if removal is not granted. (Cal. Code Regs., tit. 8, Lab. Code § 10955; see also *Cortez, supra*; *Kleemann, supra*.) In addition, 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.)

While the Labor Code requires that settlement agreements be "signed" and "executed," it does not address whether the form of signature should be manual or electronic. (Lab. Code §§

5002, 5003.) When the parties to a workers' compensation dispute enter into a written stipulation for settlement and file it with the WCAB, the WCAB may either make its findings and award based upon the stipulation or set the matter down for hearing to enable it to determine the matter. (Lab. Code § 5702.)

Likewise, the WCAB Rules of Practice and Procedure provide that settlement agreements may be based upon written stipulation "signed" by the parties, that the WCAB shall inquire into the adequacy of all settlement agreements, and that the WCJ may either issue findings and award based upon the stipulation or set the matter for hearing to determine the matter, but does not address whether the form of signature should be manual or electronic. (See Cal. Code Regs., tit. 8, §§ 10700(b), 10835(a).) Thus, if a WCJ has concerns about the validity of a signature, similar to concerns about adequacy of the settlement, the WCJ may set a hearing to address those concerns before approving a settlement.

On September 22, 2024, Assembly Bill 2337 was signed into law. It provides:

SECTION 1. Section 110.5 is added to the Labor Code, to read:

110.5. For the purpose of this chapter and subject to restrictions or requirements that may be adopted by the administrative director or the Workers' Compensation Appeals Board, documents that require a signature, including the signature of a notary on an acknowledgment, may be filed with an "electronic signature," defined as an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record, where the electronic signature is attributable to a person per the requirements of Title 2.5 (commencing with Section 1633.1) of Part 2 of Division 3 of the Civil Code or Section 16.5 of the Government Code.

SEC. 2. Section 3206.5 is added to the Labor Code, to read:

3206.5. For the purpose of this division and subject to restrictions or requirements that may be adopted by the administrative director or the Workers' Compensation Appeals Board, documents that require a signature, including the signature of a notary on an acknowledgment, may be filed with an "electronic signature," defined as an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record, where the electronic signature is attributable to a person per the requirements of Title 2.5 (commencing with Section 1633.1) of Part 2 of Division 3 of the Civil Code or Section 16.5 of the Government Code.

Consequently, effective January 1, 2025, the use of an electronic signature has been codified. We again emphasize that in the event of any concern by the WCJ as to validity of a signature, the WCJ can always set the matter for hearing.

Thus, the Petition for Removal fails to establish that significant prejudice or irreparable harm will result if removal is not granted because the parties have the right to seek a hearing before the WCJ to resolve any concerns.

Accordingly, we will deny removal.

For the foregoing reasons,

IT IS ORDERED that the Petition for Removal of the Order Suspending Action on Stipulations With Request for Award issued on January 8, 2024 is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ JOSEPH V. CAPURRO, COMMISSIONER

/s/ KATHERINE A. ZALEWSKI, CHAIR



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

NOVEMBER 14, 2024

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

**JAMES SCHUSTER
STATE COMPENSATION INSURANCE FUND
TRIBUIANO YAMADA**

SRO/cs

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