

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

STEVE HODDINOTT, et al., *Applicants*

vs.

**BRAVO SECURITY SERVICES, INC.; NATIONAL LIABILITY FIRE INS. CO.,
administered by BIBERK BUSINESS INSURANCE, et al., *Defendants***

**Adjudication Numbers: ADJ16491268; ADJ15884384; ADJ16161110; ADJ16161057;
ADJ16161093; ADJ15760386; ADJ18891808; ADJ19153721; ADJ16116250
Redding District Office**

OPINION AND ORDERS

(En Banc)

Upon a unanimous vote of its members, the Appeals Board issues this decision as an en banc decision.¹ (Lab. Code, § 115.)

We previously granted removal in these matters on our own motion to provide an opportunity to study and address the issues.

In each case, a dispute exists over a split of attorney's fees, and the current attorney for applicants has filed petitions for removal and/or disqualification contending that the workers' compensation administrative law judges (WCJs) for the Redding district office and the Eureka virtual office should be disqualified. Current attorney for applicants, Patrick C. Gorman, alleges that WCJs at those offices have approved attorney's fees where it is alleged that former attorney for applicants, Steven D. Riley, failed to file a proper disclosure in compliance with Labor Code section 4906.

¹ En banc decisions of the Appeals Board are binding precedent on all Appeals Board panels and workers' compensation administrative law judges. (Cal. Code Regs., tit. 8, § 10325; *City of Long Beach v. Workers' Comp. Appeals Bd. (Garcia)* (2005) 126 Cal.App.4th 298, 316, fn. 5 [70 Cal.Comp.Cases 109]; *Gee v. Workers' Comp. Appeals Bd.* (2002) 96 Cal.App.4th 1418, 1424, fn. 6 [67 Cal.Comp.Cases 236].) This en banc decision is also adopted as a precedent decision pursuant to Government Code section 11425.60(b).

We will issue an order consolidating the five (5) cases to consider the issue of disqualification as it relates to the attorney's fee disputes and to take further action as necessary. In order to augment our review, we will also order the attorneys to file supplemental pleadings. (Cal. Code Regs., tit. 8, § 10964.)

FACTS

These matters involve an alleged course of conduct that appears to have occurred across five (5) cases involving the current attorney for applicants, Mr. Gorman, and the former attorney for applicants, Mr. Riley. None of these matters have proceeded to a hearing on the merits of the issues raised in the disqualification petitions. The Appeals Board takes judicial notice of the Electronic Adjudication Management System ("EAMS") files in each of these cases.

Based on the allegations in the pleadings submitted, it appears that the two attorneys entered into a contract for sale of a law firm from Mr. Riley to Mr. Gorman. It appears that the contract provided that the attorneys would thereafter split all fees in half for all cases transferred to Mr. Gorman. It appears that Mr. Gorman argues grounds to either invalidate the contract, or otherwise request that no fees be awarded to Mr. Riley for the cases transferred. Mr. Gorman represents that this same issue may exist across hundreds of cases.

It appears that Mr. Riley alleges that Mr. Gorman is in breach of their contract to split fees. In response to this alleged breach, Mr. Riley has filed attorney's fee liens in the cases where Mr. Gorman has not paid pursuant to the contract.

DISCUSSION

"Consolidation may be ordered by the Workers' Compensation Appeals Board [WCAB] on its own motion[.]" (Cal. Code Regs., tit. 8, § 10396(b).) Here, consolidation is appropriate as these matters involve common issues of fact and law, and consolidation avoids the issuance of duplicate or inconsistent orders and promotes the efficient use of judicial resources by deciding these matters in a single proceeding. (Cal. Code Regs., tit. 8, § 10396(a).)

Each of these cases concerns an attorney's fee dispute at the WCAB between the current and former attorneys for an applicant. It appears that each of these matters raises the same issue as to a contract dispute between the current and former attorneys, and it further appears that the current attorney is requesting disqualification of WCJs in the Redding and Eureka district offices in each of these cases. Accordingly, we will order consolidation of these matters.

Further, we will order that current attorney for applicants, Mr. Gorman, and former attorney for applicants, Mr. Riley, meet and confer and provide supplemental pleadings. (Cal. Code Regs., tit. 8, § 10964.) Pleadings shall be verified under the penalty of perjury and may be joint as to any issues where they agree. Pleadings shall include a response to the following issues:

1. The attorneys shall advise the Appeals Board as to whether they can reach a mutual resolution of their dispute, and barring a resolution, whether they can agree on how they wish to proceed, either through mediation, arbitration, or litigation.

2. If the attorneys wish to proceed through litigation, they must clearly identify the stipulations and the issues, including any legal basis to support a conclusion as to disposition of each issue and the appropriate jurisdiction for consideration of each issue.

3. Do the attorneys agree that they are bound by the contract for the sale of the law practice? If not, please explain the basis for any contrary position.

4. Does either attorney seek to rescind the contract for the sale of the law practice? If so, explain the legal basis for the position and identify the proper venue to consider the issue.

5. If the attorneys agree that they are bound by the contract for the sale of the law practice, please address the following issues:

a. whether they agree that the Appeals Board has jurisdiction to hear the issue of the liens for attorney's fees;

b. whether they agree that the Appeals Board has jurisdiction to hear the issue of any split of the attorney's fees between them; and

c. whether they agree that the terms of the contract should be considered by the WCAB in deciding any split of attorney's fee?

d. if the attorneys do not agree that the Appeals Board has jurisdiction please explain the basis for such disagreement and explain in which court jurisdiction exists to hear their dispute.

6. If the attorneys do not agree that they are bound by the contract for the sale of the law practice, do they agree that any issue as to splitting of attorney's fees before the WCAB should be deferred pending resolution of the issue of whether the contract should be rescinded, modified, or upheld?

We encourage the attorneys to review the State Bar guidelines on attorney civility and professionalism as they meet and confer to resolve this dispute, and to consider the State Bar

rules as to the division of attorneys' fees. If the parties agree upon a disposition, they may file a joint letter to that effect.

Upon receipt of the supplemental pleadings, we will consider the responses and take further action as necessary.

For the foregoing reasons,

IT IS ORDERED that per WCAB Rule 10396 (Cal. Code Regs., tit. 8, § 10396), the following cases are **CONSOLIDATED** for the limited purpose of deciding the issues of attorney's fees and disqualification:

<u>Case Number(s)</u>	<u>Applicant</u>	<u>Defendant(s)</u>
ADJ16491268	Steve Hoddinott	Bravo Security Systems, Inc.; National Liability Fire Ins. Co., administered by BiBerk Business Insurance
ADJ15884384	Robert Scates	United Rentals, Inc.; Liberty Mutual
ADJ16161110, ADJ16161057, ADJ16161093	Pamela Bennett	Dollar Tree Stores; Safety National Casualty Corp. administered by Sedgwick
ADJ15760386, ADJ18891808	Cal DeMercurio Jr.	All Seasons Roofing; State Comp. Ins. Fund
ADJ19153721; ADJ16116250	Dawn Snure	City of Mt. Shasta; Intercare

IT IS FURTHER ORDERED that pursuant to WCAB Rule 10964 (Cal. Code Regs., tit. 8, § 10964) within *twenty (20) days plus five (5) additional days for mailing* (Cal. Code Regs., tit. 8, §§ 10605(a)(1), 10600) *after service of this Order*:

Attorney **Patrick C. Gorman (CSB #: 284483)** and attorney **Steven D. Riley (CSB#: 277243)** *shall meet and confer* and *shall provide supplemental pleading(s)*. Pleadings shall be verified under the *penalty of perjury* and may be joint as to any issues where they agree.

Pleadings shall include a response to the following issues:

1. The attorneys shall advise the Appeals Board as to whether they can reach a mutual resolution of their dispute, and barring a resolution, whether they agree on how they wish to proceed, either through mediation, arbitration, or litigation.

2. *If the attorneys wish to proceed through litigation, they must clearly identify the stipulations and the issues, including any legal basis to support a conclusion as to disposition of each issue and the appropriate jurisdiction for consideration of each issue.*
3. *Do the attorneys agree that they are bound by the contract for the sale of the law practice? If not, please explain the basis for any contrary position.*
4. *Does either attorney seek to rescind the contract for the sale of the law practice? If so, explain the legal basis for the position and identify the proper venue to consider the issue.*
5. *If the attorneys agree that they are bound by the contract for the sale of the law practice, please address the following issues:*
 - a. *whether they agree that the Appeals Board has jurisdiction to hear the issue of the liens for attorney's fees;*
 - b. *whether they agree that the Appeals Board has jurisdiction to hear the issue of any split of the attorney's fees between them; and*
 - c. *whether they agree that the terms of the contract should be considered by the WCAB in deciding any split of attorney's fee?*
 - d. *if the attorneys do not agree that the Appeals Board has jurisdiction please explain the basis for such disagreement and explain in which court jurisdiction exists to hear their dispute.*
6. *If the attorneys do not agree that they are bound by the contract for the sale of the law practice, do they agree that any issue as to splitting of attorney's fees before the WCAB should be deferred pending resolution of the issue of whether the contract should be rescinded, modified, or upheld?*

IT IS FURTHER ORDERED that all pleadings in response to this Order must be *timely filed* with the Office of the Commissioners of the Workers' Compensation Appeals Board at its street address (455 Golden Gate Avenue, 9th Floor, San Francisco, CA 94102), or electronically filed in the Electronic Adjudication System (EAMS). To be timely, any written response *must be date stamped received by the WCAB or electronically filed in EAMS* no later than twenty (20) days plus five (5) additional days for mailing (Cal. Code Regs., tit. 8, §§ 10605(a)(1), 10600) after service of this Order. Untimely or misfiled responses may not be accepted or considered.

WORKERS' COMPENSATION APPEALS BOARD (EN BANC)

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ JOSÉ H. RAZO, COMMISSIONER

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

/s/ CRAIG SNELLINGS, COMMISSIONER

/s/ JOSEPH V. CAPURRO, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

September 4, 2024

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

EDL/abs



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

SERVICE LIST

**GORMAN LAW
RILEY LAW OFFICES, INC.
LAUGHLIN, FALBO LEVY & MORESI, LLP
PARK|GUENTHART
LENAHAN, SLATER, PEARSE & MAJERNIK, LLP
STATE COMPENSATION INSURANCE FUND
MULLEN & FILIPPI
DAVID JANE & ASSOCIATES
STEVE HODDINOTT
ROBERT SCATES
PAMELA BENNETT
CAL DEMERCURIO, JR.
DAWN SNURE**