

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

**ARTURO RUELAS, *Applicant***

**vs.**

**QX LOGISTIC, LLC; REDWOOD FIRE AND CASUALTY INSURANCE COMPANY,  
administered by BERKSHIRE HATHAWAY HOMESTATE COMPANIES, *Defendants***

**Adjudication Numbers: ADJ15474735  
Los Angeles District Office**

**OPINION AND ORDER  
GRANTING PETITION  
FOR REMOVAL AND  
DECISION AFTER REMOVAL**

Defendant has filed a petition for removal from the orders to appear and produce issued on September 11, 2024, by the workers' compensation administrative law judge (WCJ), which ordered a representative from two investigation companies to appear in person at a subsequent hearing and produce their entire investigation files for inspection.

Defendant contends that the order violates defendant's right to due process and that the order to produce all documents should be modified to exclude any documents subject to privilege and limited to those documents relevant to the issue of injury arising out of and occurring in the course of employment.

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, we will grant removal and as our Decision After Removal we will rescind the September 11, 2024 orders to appear and produce and return this matter to the trial level for further proceedings.

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, and based upon the analysis below, the discovery orders are not supported by any record and defendant has a due process right to set the issue of applicant's petition to quash for trial. The violation of defendant's right to due process constitutes substantial prejudice and irreparable harm. Thus, we will grant removal.

All parties to a workers' compensation proceeding retain the fundamental right to due process and a fair hearing under both the California and United States Constitutions. (*Rucker v. Workers' Comp. Appeals Bd.* (2000) 82 Cal.App.4th 151, 157-158 [65 Cal.Comp.Cases 805].) A fair hearing is "... one of 'the rudiments of fair play' assured to every litigant ... ." (*Id.* at 158.) As stated by the California Supreme Court in *Carstens v. Pillsbury* (1916) 172 Cal. 572, "[The] commission, ... must find facts and declare and enforce rights and liabilities, -- in short, it acts as a court, and it must observe the mandate of the constitution of the United States that this cannot be done except after due process of law." (*Id.* at 577.)

A fair hearing includes but is not limited to the opportunity to call and cross-examine witnesses; introduce and inspect exhibits; and to offer evidence in rebuttal. (See *Gangwish v. Workers' Comp. Appeals Bd.* (2001) 89 Cal.App.4th 1284, 1295 [66 Cal. Comp. Cases 584]; *Rucker, supra*, at 157-158 citing *Kaiser Co. v. Industrial Acci. Com. (Baskin)* (1952) 109 Cal.App.2d 54, 58 [17 Cal.Comp.Cases 21]; *Katzin v. Workers' Comp. Appeals Bd.* (1992) 5 Cal.App.4 703, 710 [57 Cal.Comp.Cases 230].)

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.)

The Appeals Board issues and enforces subpoenas in the same manner as the Civil Discovery Act. (Cal. Lab. Code, § 5710(a); Cal. Code Civ. Proc., §§ 2016.010, et. seq.) Here, applicant has issued a subpoena for investigation records from two non-party investigation services. It appears that defendant may have used these services in investigating applicant's claim. Defendant filed a petition to quash the subpoenas. The WCJ, in essence, summarily denied defendant's petition to quash when they issued orders for the investigators to appear and produce documents. This violated defendant's right to due process to have a hearing on its petition to quash. Accordingly, removal must be granted to permit defendant its right to a hearing on the petition to quash.

Next, we would provide the following guidance upon return as it appears that the WCJ's orders are not the procedurally correct method for addressing the discovery dispute. Should the parties continue disputing this discovery issue, the issue of defendant's petition to quash should be set for trial. Thereafter, the WCJ may either quash the subpoenas or deny the petition to quash. If the petition to quash is denied, then the subpoenaed parties should be notified of the court's decision, after which they are expected to timely respond to the subpoena. If the subpoenaed parties are withholding responsive documents based on a claim of privilege, they must produce a privilege log of all such documents withheld (Cal. Code Civ. Proc., § 2031.240(b)(2),) and the parties may then litigate the issue of privilege. If the subpoenaed parties refuse to comply with the subpoena, then the WCJ may issue appropriate orders compelling the production of documents. (Cal. Code Civ. Proc., § 2031.300.) Should the non-parties continue to refuse to comply, the WCJ may consider appropriate procedures for contempt, which could ultimately include orders against non-parties requiring their appearance. However, this is an exceedingly rare remedy. Generally, non-parties respond to an order of production. Furthermore, and if a matter escalates to contempt, the WCJ must keep in mind the due process rights of any non-parties to such proceedings, which requires that the non-parties receive notice and an opportunity to be heard as to any orders which may affect them.

Accordingly, we grant removal and as our Decision After Removal we rescind the September 11, 2024 orders to appear and produce and return this matter to the trial level for further proceedings.

For the foregoing reasons,

**IT IS ORDERED** that defendant's Petition for Removal from the September 11, 2024 orders to appear and produce issued by the WCJ is **GRANTED**.

**IT IS FURTHER ORDERED** as the Decision After Removal of the Workers' Compensation Appeals Board that the September 11, 2024 orders to appear and produce issued by the WCJ are **RESCINDED** and this matter is **RETURNED** to the trial level for further proceedings.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ CRAIG L. SNELLINGS, COMMISSIONER**

**I CONCUR,**

**/s/ KATHERINE WILLIAMS DODD, COMMISSIONER**

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



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

**OCTOBER 10, 2025**

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

**ARTURO RUELAS  
REYRES ASSOCIATES LAW FIRM  
WINTERSTEEN CASAREZ LAW FIRM**

**EDL/mt**

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