

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

CARLOS ENRIQUE VICENTE, *Applicant*

vs.

**SAMUEL HALE, LLC / TWS FACILITY SERVICES, INC.; CANNON COCHRAN
MANAGEMENT SERVICES, INC. ON BEHALF OF CLEAR SPRING PROPERTY &
CASUALTY COMPANY, *Defendants***

**Adjudication Number: ADJ15820808
Van Nuys District Office**

**OPINION AND ORDER
DENYING PETITION FOR
REMOVAL**

Defendant seeks removal of the October 21, 2024 Order, wherein the workers' compensation administrative law judge (WCJ) set the matter for trial.

Defendant contends that the trial setting Order was made in error, when an Order of Dismissal was previously entered.

We received an Answer from applicant.

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, the Answer, and the contents of the Report. Based on our review of the record, and 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 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, 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.

We observe that defendant's Petition for Removal is essentially a motion for summary judgment, wherein defendant requests that we rule, without a hearing, on the merits of defendant's argument regarding the October 21, 2024 trial setting Order. However, motions for summary judgment are not permissible in workers' compensation cases in California. (Cal. Code Regs., tit. 8, § 10515.) Rather, decisions in workers' compensation cases must be based upon an adequate record after providing all parties an opportunity to be heard, to protect the due process rights of everyone involved. (Lab. Code § 5313; *Hamilton v. Lockheed Corporation (Hamilton)* (2001) 66 Cal.Comp.Cases 473, 476 (Appeals Bd. en banc); *Evans v. Workmen's Comp. Appeals Bd.* (1968) 68 Cal.2d 753, 755 [33 Cal.Comp.Cases 350].) Thus, defendant's challenge to the trial setting order is appropriately addressed at trial, where the WCJ can base the determination on a proper record.

We remind defendant's counsel that compliance is required with our Rules and en banc decisions requiring proper identification of parties and liable entities. Under WCAB Rule 10390 all parties must fully disclose their own legal name, the name of their attorney or non-attorney representative, the name of the insurer and employer, and the third-party administrator, while clarifying that the third-party administrator is not a party. (Cal. Code Regs., tit. 8, §10390.) Under WCAB Rule 10400(b)(1), all attorney representatives must file a notice of representation or opening document that complies with WCAB Rule 10390 and includes "the name of the represented party." (Cal. Code Regs., tit. 8, §§10390, 10400(b)(1).) "If an attorney represents multiple parties or entities, all names of each represented party or entity must be disclosed." (*DiFusco v. Hands on Spa* (2025) 2025 Cal. Wrk. Comp. LEXIS 42, at p. *22 (Appeals Board en banc).)

The *Coldiron I* en banc decision requires that, in cases where an employer's liability is adjusted by a third party administrator, the administrator must disclose "the identity of its client, whether a self-insured employer or insurance carrier" and requires that, "[i]f the client is an insurance carrier, the administrator must disclose whether the policy includes a 'high self-insured retention,' a large deductible, or any other provision that affects the identity of the entity actually liable for the payment of compensation." (*Coldiron v. Compuware Corp.* (2002) 67

Cal.Comp.Cases 289, 290-291 (Appeals Board en banc) [*Coldiron I*].) Failure of the administrator to disclose the identity of its client may subject it to sanctions pursuant to Labor Code section 5813. (*Id.* at p. 291; see also *Coldiron v. Compuware Corp.* (2002) 67 Cal.Comp.Cases 1466, 1470 (Appeals Board en banc) [*Coldiron II*].)

The recently issued en banc opinion in *DiFusco v. Hands on Spa* clarified that the *Coldiron I* and *II* disclosure requirements are applicable to all defendants, regardless of whether a third-party administrator is involved. (*DiFusco, supra*, 2025 Cal. Wrk. Comp. LEXIS 42, at pp. *23-*26.) The *DiFusco* disclosure requirements “...serve to ensure that all parties are accurately identified...” (*Id.* at p. *21.) *DiFusco* placed the burden of compliance squarely on defendants, explaining, “[r]ead together, WCAB Rules 10390, 10400 and 10401 ensure that all parties, representatives and liable entities are fully identified in each case. Compliance with these rules is important to avoid errors such as misidentification of parties, inadvertent omission of parties from pleadings, and incorrect case captions. We observe that information as to the proper defendant is within a defendant’s control, and not an applicant’s, so that it is incumbent upon a defendant to comply with this responsibility.” (*Id.* at p. *22.)

Here, attorney Hayden M. Beach, of the Law Offices of Bradford & Barthel, LLP, has failed to comply with these mandatory duties to identify his client or clients and to fully disclose liable entities. Instead, counsel’s filings include conflicting information regarding the identity of his clients. For example, the motion for dismissal, dated December 5, 2022, identifies the defendant as “Samuel Hale LLC / TWS Facility Services, Inc. and Cannon Cochran Management Services, Inc. on behalf of Clear Spring Property & Casualty Company,” while the Notice of Representation, filed the same date, indicates the Bradford & Barthel were retained to represent “Cannon Cochran Management Services, Inc. on Behalf of Clear Spring Property & Casualty Company.” The Petition for Removal, dated October 25, 2024 states that Bradford & Barthel represents “Clear Spring Property and Casualty Company, administered by CCMSI and Health Devices Services dba Doc Johnson,” while the Petition for Costs and Sanctions, filed on March 3, 2025, indicates that the firm represents “defendant Samuel Hale LLC care of CCMSI.”

We advise counsel to resolve these questions of client identity and liability right away. Specifically, counsel’s filings should clearly indicate all defendants’ names; clarify which defendants are represented by his firm as well as the correct name for each entity; join any liable entities as necessitated by the facts of this case; and indicate whether service has been properly

effected. Failure to address these issues could result in sanctions. (*Coldiron I, supra*, at p. 291; *Coldiron II, supra*, at p. 1470; *DiFusco, supra*, at pp. *25, *28.) Moreover, from the applicant's perspective, if the correct defendant is not identified, any award to applicant may potentially be unenforceable. (See Lab. Code, §§5806, 5807.)

Accordingly, the petition for removal is denied.

For the foregoing reasons,

IT IS ORDERED that the Petition for Removal is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

/s/ JOSEPH V. CAPURRO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

OCTOBER 28, 2025

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

**CARLOS ENRIQUE VICENTE
EQUITABLE LAW FIRM APLC
BRADFORD & BARTHEL, LLP**

MB/ara

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