

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

**GUADALUPE MAGALLON DE ALVAREZ, *Applicant***

**vs.**

**ACCOUNTABILITIES, INC.; CALIFORNIA INSURANCE GUARANTEE  
ASSOCIATION for LUMBERMEN'S UNDERWRITING ALLIANCE, in liquidation,  
*Defendants***

**Adjudication Number: ADJ9984568  
Oakland District Office**

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

Defendant has filed a petition for removal from the order that a representative or adjuster from California Insurance Guarantee Association (CIGA) appear at trial in-person, which issued on August 29, 2024, by the workers' compensation administrative law judge (WCJ).

Defendant contends that the appearance of the adjuster or representative is not required and that the WCJ was mistaken that a representative was unavailable at the hearing on August 29, 2024.

We have not received an answer from lien claimant. 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 August 29, 2024 order for an adjuster or representative to appear, and substitute a new order that defendant have someone with settlement authority available electronically pursuant to WCAB Rule 10752(b).

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, an order to appear in-person would appear both legally incorrect and would not be reparable if the matter proceeded to reconsideration. Thus, we will grant removal.

Defendant challenges the order of the WCJ to have an adjuster or representative present at trial in-person. The WCJ expressly stated in the order “No remote[.]” (Minutes of Hearing, August 29, 2024.) Recently, the Appeals Board issued an en banc decision in *Perez v. Chicago Dogs*, 2025 Cal. Wrk. Comp. LEXIS 29. In that decision, the Appeals Board made clear that “the due process right to a fair hearing and a determination based on the merits is good cause to allow the electronic testimony of the witness.” (*Id.* at \* 17, (emphasis in original).) Here, the purpose of the adjuster’s presence is not as a witness, but instead to ensure that defendant complies with WCAB Rule 10752(b), which states: “Each required party shall have a person available with settlement authority at all hearings.” (Cal. Code Regs., tit. 8, § 10752(b).) If a testifying party may appear remotely, and in the interests of providing due process to all parties, it would logically flow that a non-testifying party may also appear remotely upon request.

In our reading of the petition, it appears that defendant primarily objects to the in-person appearance of an adjuster or representative. Defendant does not appear to object to having such a person available by phone, which is required by regulation. Thus, it would appear that the matter may proceed with the adjuster or representative with settlement authority being available by phone.

There may be confusion in this case as defendant has noted in its petition that the adjuster wishes to proceed to trial on their defense that the lien in this matter is not a covered claim. The WCJ may be misinterpreting this as if defendant does not have someone with settlement authority available. The regulation only requires someone present who has the *ability* to settle the case. The regulation cannot be read to impose upon a party the *desire* to settle a case. If a party has someone

with settlement authority present, and that person wishes to proceed to trial or otherwise reject settlement, no violation of the rule has occurred.<sup>1</sup>

Accordingly, we grant removal and as our Decision After Removal, we rescind the August 29, 2024 minute order for an adjuster or representative to appear in-person, and substitute a new order that defendant have someone with settlement authority available electronically pursuant to WCAB Rule 10752(b). (Cal. Code Regs., tit. 8, § 10752(b).)

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<sup>1</sup> We observe that there is no requirement in WCAB Rule 10401 (Cal. Code Regs., tit. 8, § 10401) that an appearing non-attorney representative file a notice of representation when their employing entity has already satisfied the requirement. Instead, the applicable rule is WCAB Rule 10751 (Cal. Code Reg., tit. 8, § 10751).

For the foregoing reasons,

**IT IS ORDERED** that defendant's Petition for Removal from the August 29, 2024 minute order for an adjuster or representative to appear, issued by the WCJ is **GRANTED**.

**IT IS FURTHER ORDERED** as the Decision After Removal of the Workers' Compensation Appeals Board that the August 29, 2024 minute order for an adjuster or representative to appear is **RESCINDED** with the following **SUBSTITUTED** therefor:

**IT IS ORDERED** that pursuant to WCAB Rule 10752(b), defendant shall have a person available with settlement authority at all hearings, who may appear electronically.

**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**

**SEPTEMBER 26, 2025**

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

**GUADALUPE MAGALLON DE ALVAREZ  
LAW OFFICES OF JAMES LATIMER  
FLOYD SKEREN MANUKIAN LANGEVIN**

**EDL/mt**

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