

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

JOHN L. MARSHALL, *Applicant*

vs.

**AUTOMOBILE CLUB OF SOUTHERN CALIFORNIA;
THE HARTFORD administered by
CANNON COCHRAN IRVINE (CCSMI), *Defendants***

**Adjudication Number: ADJ10673950
Van Nuys District Office**

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

We have considered the allegations of the Petition for Removal and the contents of the report of the workers' compensation administrative law judge (WCJ) with respect thereto. Based on our review of the record, and for the reasons stated in the WCJ's report, which we adopt and incorporate, we will grant the Petition for Removal, rescind the WCJ's decision, and return this matter to the WCJ for further proceedings and decision.

For the foregoing reasons,

IT IS ORDERED that the Petition for Removal of the decision of February 11, 2025 is **GRANTED**.

IT IS FURTHER ORDERED as the Decision After Removal of the Workers' Compensation Appeals Board that the decision of February 11, 2025 is **RESCINDED** and that the matter is **RETURNED** to the trial level for further proceedings and decision by the WCJ.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

June 5, 2025

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

**JOHN MARSHALL
LAW OFFICE OF DENNIS J. HERSHEWE
BRADFORD & BARTHEL
GATTI FOZ, APC**

AS/mc

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

REPORT AND RECOMMENDATION ON PETITION FOR REMOVAL

I

INTRODUCTION

Defendant, by and through her attorney of record, has filed a timely and verified Petition for Removal challenging the 2/11/2015 [sic] Minute Order Issued by Judge Feddersen on February 11, 2025 at the Status Conference. Minutes of Hearing were served on the parties on 2/26/2025 and addressed discovery issues.

II

FACTS

Because the trial judge is no longer available, this report is submitted on his behalf by the presiding judge pursuant to California Code of Regulations, title 8, section 10962(c).

This matter originally proceeded to trial on September 19, 2017. The trial judge issued a Findings and Award and Order on November 22, 2027 [sic]. Following the filing of a Petition for Reconsideration, the trial judge issued an Order Rescinding the Findings and Award and set the matter for hearing on the issue of development of the record. After several hearings the matter was again submitted for decision in July 2018 and the trial judge issued an Amended Opinion on Decision on September 21, 2018. A second Petition for Reconsideration was filed on October 19, 2018, and the WCJ issued an Order Rescinding the Amended Findings and Award date 11/2/2018. The trial judge found the record still required further development of the record and appointed Dr. Roth as a regular physician. After issuing a report, Dr. Roth passed away and was unavailable for cross-examination and a replacement regular physician was appointed. Dr. Silbart was appointed as a replacement regular physician (Order dated 9/5/2019 EAMS 10#71050306). The matter again proceeded to trial on November 7, 2022 on the issue of additional panels and on the Motion to Strike the reports of the Regular Physician Dr. Silbert (MOH/SOE 11/7/2022 EAMS ID76135243). On January 9, 2023 the trial judge issued Findings and Orders Re: Discovery Issues (EAMS ID 76318451). An additional minute order issued on 4/24/2023 regarding discovery issues (EAMS ID 76415683). A Second Amended Findings and Award issued on June 2, 2023 following the April 24, 2023 trial. The June 2, 2023 Findings and Award was rescinded on July 12, 2023 following the July 3, 2023 Petition for Reconsideration. Defendant filed an August 14, 2023 Petition for Removal (EAMS ID 47711179). The Petition for Removal was denied. Further Discovery was ordered.

The parties appeared on May 22, 2024, and the Judge indicated that he would need to issue an NOI to appoint a new regular physician as Dr. Silbart [sic] had retired. An objection was filed and the matter was set for trial on the issue of what information may be sent to the PQME's. The MOH also noted that a new regular physician would be appointed but not to replace the previous reporting (MOH 8/21/2024 EAMS ID 78304750). Dr. Borelli was appointed as the new regular physician in the MOH dated 10/7/2024 followed by a formal order dated 11/18/2024. On November 18, 2024, Dr. Laura Hatch was appointed as the replacement regular physician as the parties were unable to reach Dr. Borelli (Order EAMS ID 78618721).

The trial judge gave discovery instructions in the February 11, 2025, Minutes of Hearing (EAMS ID 78906049). Defendants have filed a Petition for Removal from the Minute February 11, 2025 Minute Order.

III

DISCUSSION

This case has been going on for several years and discovery has still not been completed. Further complicating the case is the fact that the trial judge is no longer available. The length of the litigation has necessitated the appointment of four regular physician's due to death, retirement and unavailability. The record does not demonstrate a full adjudication of the issues involved in this case. This matter needs to be reassigned to a new trial judge and hearing conducted to fully adjudicate the issues. The new trial judge should determine the necessity and scope of any further discovery.

IV
RECOMMENDATION

It is recommended that the Petition for Removal be granted and the matter returned for reassignment to a new judge for a full hearing and decision on the issues.

This matter was transmitted to the Recon Unit on 5/7/2025.

Respectfully submitted,

SHARON L. VELZY
Workers' Compensation Judge