

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

MARIO PALACIOS, *Applicant*

vs.

**PLAN B ADVANTAGE, INC.;
STATE COMPENSATION INSURANCE FUND, *Defendants***

**Adjudication Numbers: ADJ17371801; ADJ18218517
Long Beach District Office**

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

Applicant has filed a petition for removal from the order that applicant and two witnesses who signed a Compromise and Release (C&R) appear in-person at a hearing, which issued on August 4, 2025, by the workers' compensation administrative law judge (WCJ).

Applicant contends that the in-person appearance is not required and that the parties should be allowed to appear remotely. Applicant also seeks removal from a June 20, 2025 Order Disapproving the C&R and requests guidance as to whether electronic signatures upon a C&R are valid and enforceable.

We have not received an answer from defendant. Applicant filed a supplemental petition, which was not requested by the Appeals Board nor has applicant sought permission for filing a supplemental pleading, and thus we have not considered the petition. (Cal. Code Regs., tit. 8, § 10964.) 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 4, 2025 order for parties to appear in person and

substitute a new order allowing applicant to appear remotely. We do not address the June 20, 2025 Order as the parties refiled an amended C&R and thus, the prior Order Disapproving is now moot.

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.

Applicant challenges the order of the WCJ to have applicant and two witnesses who signed the C&R appear in-person. 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).)

The workers' compensation system “was intended to afford a simple and nontechnical path to relief.” (*Elkins v. Derby* (1974) 12 Cal.3d 410, 419 [39 Cal.Comp.Cases 624]; Cf. Cal. Const., art. XX, § 21; § 3201.) . . . “[I]t is an often-stated principle that the Act disfavors application of formalistic rules of procedure that would defeat an employee's entitlement to rehabilitation benefits.” (*Martino v. Workers' Comp. Appeals Bd.* (2002) 103 Cal. App.4th 485, 490 [67 Cal.Comp.Cases 1273].)

(*Id.* at *15.)

Here, the purpose of applicant's presence is to confirm his signature on a Compromise and Release. It appears that this can be accomplished remotely. Accordingly, and in the interests of due process, applicant is permitted to appear remotely to verify his signature on the Compromise and Release. If for some reason, the matter cannot be completed remotely, the WCJ must create a proper record to establish good cause for an in-person hearing.

Next, there are additional procedural hurdles when ordering non-parties to appear. Any order affecting someone must be served on that person. Failure to do so violates due process. The

WCJ did not serve the order to appear upon the witnesses. Furthermore, we have no ability to serve this decision upon the witnesses listed in the C&R as they are not listed in the official address record, accordingly, we cannot order that they appear. Lastly, and assuming that applicant appears and verifies his own signature, it would appear that the witnesses testimony would be duplicative and/or moot.

Applicant requests clarification as to whether electronic signatures may be used on a Compromise and Release. However, there is no order at this time precluding applicant from using an electronic signature. To that extent, applicant is requesting an advisory opinion, which we decline to issue. (*Neary v. Regents of Univ. of Calif.* (1992) 3 Cal.4th 273, 284 [the issuance of advisory opinions is to be avoided].) However, given that Labor Code section 5003 does not define what constitutes a signature, and to assist the parties, they may wish to review California Civil Code section 1633.7 as well as the recently enacted Labor Code section 3206.5, both of which permit electronic signatures.

Applicant further requests that we address the June 20, 2025 Order Disapproving the C&R.¹ However, the parties have subsequently filed an amended C&R, which makes the prior C&R moot, and thus we need not address it.

Accordingly, we grant removal and as our Decision After Removal, we rescind the August 4, 2025 order to appear in-person, and substitute a new order that applicant may appear electronically to verify his signature on the C&R.

For the foregoing reasons,

IT IS ORDERED that applicant's Petition for Removal from the order to appear in-person issued on August 4, 2025, by the WCJ is **GRANTED**.

¹ Contrary to the recommendation of the WCJ, we have treated the petition as timely because the June 20, 2025 Order Disapproving was served via designated service upon defendant, and there is no proof of service in EAMS showing that the order was served upon applicant.

IT IS FURTHER ORDERED as the Decision After Removal of the Workers' Compensation Appeals Board that the August 4, 2025 order to appear in-person is **RESCINDED** with the following **SUBSTITUTED** therefor:

IT IS ORDERED that applicant may appear electronically to verify his signature on the Compromise and Release.

WORKERS' COMPENSATION APPEALS BOARD

/s/ LISA A. SUSSMAN, DEPUTY 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.

**MARIO PALACIOS
ACCIDENT DEFENDERS LAW TARZANA
SCIF INSURED LAW LONG BEACH**

EDL/mt

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