

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

**THERESA DORAN, *Applicant*,**

**vs.**

**LAM RESEARCH CORPORATION; SAFETY NATIONAL CASUALTY  
CORPORATION, adjusted by TRISTAR RISK MANAGEMENT, *Defendants***

**Adjudication Number: ADJ19072601  
Oakland District Office**

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

Defendant Safety National Casualty Corporation (SNCC) , administered by Tristar Risk Management seeks removal following the October 29, 2024 Order Limiting Subpoena Duces Tecum (SDT), issued by a workers' compensation administrative law judge (WCJ) wherein the WCJ limited the scope of records to be produced by Solano Primary Care Medical Group and John Muir to "medical records regarding applicant's upper extremities."

Defendant contends that the right to discovery is to be construed liberally and that limiting their access to applicant's medical record forecloses that right.

We have received an answer from applicant.

We received a Report and Recommendation from the WCJ recommending we deny the Petition.

We have considered the allegations of the Petition for Removal, applicant's answer, and the contents of the Report of the WCJ with respect thereto. Based on our review of the record and for the reasons stated below, we will grant the Petition for Removal, rescind the WCJ's Order limiting the SDTs, and return this matter to the WCJ for further proceedings consistent with this opinion.

The existing record reflects that on April 1, 2024, applicant filed an Application for Adjudication (Application) claiming industrial injuries sustained arising out of and in the course of her employment (AOE/COE) to her shoulders, arm, and wrist, as a result of cumulative trauma during the period June 1, 1998 through January 25, 2024.

On August 14, 2024, defendant issued two SDT's to produce any and all medical records relating to applicant from Solano Primary Care Medical Group and John Muir Health.

On August 21, 2024 applicant filed a petition to quash said Subpoenas.

On October 29, 2024, the WCJ issued an Order limiting the SDTs to medical records solely related to applicant's upper extremities. It is from this Order defendant seeks 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).) 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 p. 158.) As stated by the Supreme Court of California 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 p. 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].)

Further, 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).) 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, § 10787.) "It is the responsibility of the parties and the WCJ to ensure that the record is complete when a case is submitted for decision on the record. At a minimum, the record must contain, in properly organized form, the issues submitted for decision, the admissions and stipulations of the parties, and admitted evidence." (*Hamilton, supra*, 66 Cal.Comp.Cases at p. 475.) The WCJ's decision must "set[] forth

clearly and concisely the reasons for the decision made on each issue, and the evidence relied on,” so that “the parties, and the Board if reconsideration is sought, [can] ascertain the basis for the decision[.] . . . For the opinion on decision to be meaningful, the WCJ must refer with specificity to an adequate and completely developed record.” (*Id.* at p. 476 (citing *Evans v. Workmen’s Comp. Appeals Bd.* (1968) 68 Cal.2d 753, 755 [33 Cal.Comp.Cases 350])).)

As required by section 5313 and explained in *Hamilton*, “the WCJ is charged with the responsibility of referring to the evidence in the opinion on decision, and of clearly designating the evidence that forms the basis of the decision.” (*Hamilton, supra*, at p. 475.) The WCJ’s opinion on decision “enables the parties, and the Board if reconsideration is sought, to ascertain the basis for the decision, and makes the right of seeking reconsideration more meaningful.” (*Hamilton, supra*, at p. 476 citing *Evans v. Workmen’s Comp. Appeals Bd.* (1968) 68 Cal.2d 753, 755 [33 Cal.Comp.Cases 350]).)

Here, it appears that the WCJ based his decision on a determination that an Order limiting the scope of the requested medical records was necessary, based upon “good cause”, but failed to provide a basis for such decision, nor the evidence upon which he relied.

As there may be merit to certain limitations on discovery, the better course of action is to set this matter for a status conference, in order to determine what, if any further discovery is necessary, prior to proceeding to a formal hearing. At that time, should any party object to a finding or order of the WCJ, a record should be made as to the basis for same.

Absent same, we are unable to determine if good cause exists for the WCJ’s order limiting discovery of applicant’s medical records. Therefore, we must rescind the Order and return this matter to the WCJ for further proceedings consistent with this opinion.

Accordingly, we grant applicant’s Petition for Removal, rescind the October 29, 2024 Order, and return this matter to the district office for further proceedings consistent with this decision.

For the foregoing reasons,

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

**IT IS FURTHER ORDERED** as the Decision After Removal of the Workers' Compensation Appeals Board, that the Order of October 29, 2024 Limiting SDT is **RESCINDED**, and this matter is **RETURNED** to the district office for further proceedings consistent with this Opinion and Decision.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ CRAIG SNELLINGS, COMMISSIONER**

**I CONCUR,**

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

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



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

**MAY 12, 2025**

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

**THERESA DORAN  
GEARHEART & SONNICKSEN  
LAUGHLIN, FALBO, LEVY & MORESI**

**CWF/cs**

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