

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

ANGEL RAMOS, *Applicant*

vs.

**C-STORE SERVICES, INC. AND
EVEREST NATIONAL INSURANCE COMPANY, *Defendants***

**Adjudication Number: ADJ19945323
Lodi District Office**

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

Applicant has filed a petition for removal from the Order Regarding Remote Trial issued on June 3, 2026, by the workers' compensation administrative law judge (WCJ), which denied the parties' request for a remote trial on the issue of sanctions, penalties, and attorney's fees under Labor Code section 5710.

Applicant contends that good cause exists to permit remote proceedings.

We have not received an Answer from defendant. 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 Order Regarding Remote Trial issued on June 3, 2026, and issue an order granting applicant's request for remote trial.

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, the WCJ acknowledges in the Report that removal is proper because applicant would not be able to rectify the denial of a remote trial through the reconsideration process as the trial will be completed. We agree.

In our en banc decision in *Perez v. Chicago Dogs* (2025) 90 Cal.Comp.Cases 830 (Appeals Board en banc) (*Chicago Dogs*), we stated that:

In conducting our preliminary review, we observe that in addition to our constitutional mandate to accomplish substantial justice, the following fundamental legal principles must guide us:

(A) Only the Appeals Board has statutory authority to establish procedures in workers' compensation proceedings and to promulgate rules.

(B) Parties have a due process right to a fair hearing and a determination based on the merits.

(C) In workers' compensation proceedings, pleadings are liberally construed and may be amended to conform to proof.

(*Perez v. Chicago Dogs* (2025) 90 Cal. Comp. Cases 830, 836, (Appeals Board en banc).)

Exclusive statutory authority is granted by section 5500.3 to the Appeals Board to establish procedures, and in addition, the Appeals Board has statutory authority under sections 5307 and 5708 to promulgate regulations regarding the adjudicatory process. (*Chicago Dogs, supra*, 90 Cal.Comp.Cases at p. 836.)

All 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].) "Due process requires notice and a meaningful opportunity to present evidence in regards to the issues." (*Rea v. Workers' Comp. Appeals Bd.* (2005) 127 Cal.App.4th 625, 643 [70 Cal.Comp.Cases 312]; see also *Fortich v. Workers' Comp. Appeals Bd.* (1991) 233 Cal.App.3d 1449, 1452-1454 [56 Cal.Comp.Cases 537].) 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]; *Rucker, supra*, at pp. 157-158 citing *Kaiser Co. v. I.A.C. (Baskin)*

(1952) 109 Cal.App.2d 54, 58 [17 Cal.Comp.Cases 21]; *Katzin v. Workers' Comp. Appeals Bd.* (1992) 5 Cal.App.4th 703, 710 [57 Cal.Comp.Cases 230].) As stated by the Court of Appeal:

A denial of due process to a party ordinarily compels annulment of the Board's decision only if it is reasonably probable that, absent the procedural error, the party would have attained a more favorable result. However, if the denial of due process prevents a party from having a fair hearing, the denial of due process is reversible per se.

(*Beverly Hills Multispecialty Group, Inc. v. Workers' Comp. Appeals Bd. (Pinkney)* (1994) 26 Cal.App.4th 789, 806 [59 Cal.Comp.Cases 461], citations omitted.)

It is the policy of the law to favor, whenever possible, a hearing on the merits. (*Fox v. Workers' Comp. Appeals Bd.* (1992) 4 Cal.App.4th 1196, 1205 [57 Cal.Comp.Cases 149]; see also *Shamblin v. Brattain* (1988) 44 Cal.3d 474, 478 ("when a party in default moves promptly to seek relief, very slight evidence is required to justify a trial court's order setting aside a default.") As we stated in *Chicago Dogs*: "This is particularly true in workers' compensation cases, where there is a constitutional mandate 'to accomplish substantial justice in all cases.'" (*Chicago Dogs, supra*, 90 Cal.Comp.Cases at p. 837, quoting Cal. Const., art. XIV, § 4.)

Decisions of the Appeals Board "must be based on admitted evidence in the record." (*Hamilton v. Lockheed Corporation* (2001) 66 Cal.Comp.Cases 473, 476 (Appeals Board en banc).) The WCJ and the Appeals Board have a duty to further develop the record where there is insufficient evidence on an issue. (*McClune v. Workers' Comp. Appeals Bd.* (1998) 62 Cal.App.4th 1117, 1121-1122 [63 Cal.Comp.Cases 261].) The Appeals Board has a constitutional mandate to "ensure substantial justice in all cases." (*Kuykendall v. Workers' Comp. Appeals Bd.* (2000) 79 Cal.App.4th 396, 403 [65 Cal.Comp.Cases 264].)

In *Chicago Dogs*, we explained that: "in workers' compensation proceedings, it is settled law that (1) pleadings may be informal (citations); (2) claims should be adjudicated based on substance rather than form (citations); (3) pleadings should liberally construed so as not to defeat or undermine an injured employee's right to make a claim (citations); and (4) technically deficient pleadings, if they give notice and are timely, normally do not deprive the Board of jurisdiction (citations)." (*Chicago Dogs, supra*, 90 Cal.Comp.Cases at p. 839.) We then concluded that:

“interpretation of our rules must necessarily incorporate California’s public policy in favor of adjudication of claims on their merits, rather than on the technical sufficiency of the pleadings.”

(*Ibid.*) We noted that:

For example, WCAB Rule 10617 provides for considerable latitude in accepting nonstandard pleadings, so long as the pleadings contain “a combination of information sufficient to establish the case or cases to which the document relates or, if it is a case opening document, sufficient information to open an adjudication file.” (Cal. Code Regs., tit. 8, §10617(b).) Similarly, WCAB Rule 10517 specifies that pleadings are deemed amended to conform to the stipulations agreed to by the parties on the record or may be amended by the Appeals Board to conform to proof. (Cal. Code Regs., tit. 8, §10517.) Because an evidentiary record must be created to allow for appellate review, and to safeguard due process, a request for electronic testimony must not be denied without an opportunity to be heard. WCAB Rule 10515 specifically disallows “[d]emurrers, petitions for judgment on the pleadings and petitions for summary judgment.” (Cal. Code Regs., tit. 8, §10515.) The principles of liberal pleading and amendment of pleadings to conform to proof outlined above mean that any petition should be considered on its merits and not based on its title.

(*Id.* at pp. 839-840.)

WCAB Rule 10330 states in pertinent part that:

In any case that has been regularly assigned to a workers’ compensation judge, the workers’ compensation judge shall have full power, jurisdiction and authority to hear and determine all issues of fact and law presented and to issue any interim, interlocutory and final orders . . . Orders, findings, decisions and awards issued by a workers’ compensation judge shall be the orders, findings, decisions and awards of the Workers’ Compensation Appeals Board unless reconsideration is granted.

(Cal. Code Regs., tit. 8, § 10330.)

WCAB Rule 10816(a) states that: “If a party intends to appear electronically at any hearing, they shall file a petition showing good cause pursuant to rule 10510.” (Cal. Code Regs., tit. 8, § 10816(a).) WCAB Rule 10817(a), a party may also seek to have electronic witness testimony. (Cal. Code Regs., tit. 8, § 10817(a).)

Here, the parties appear to have a relatively minor dispute over the amount of attorney fees payable under section 5710. It further appears that applicant is based in Southern California and has requested to proceed electronically to forgo the time and expense of travel. This request could

either be construed as a request for courtesy or a request establishing good cause for proceeding remotely.

First and foremost, the Appeals Board strongly encourages all parties in the practice of law, including both the bench and the bar, that requests for professional courtesy should be liberally granted whenever possible. (See Cal. Rules of Court, rule 9.7, [Amending the attorney's oath to include: "As an officer of the court, I will strive to conduct myself at all times with dignity, courtesy and integrity."].) Thus, and to the extent that applicant's request could be construed as requesting courtesy of the court, the WCJ should grant the request whenever possible. If the WCJ cannot grant a request for courtesy, the WCJ should provide reasons for the denial. The failure of a WCJ to grant requests for courtesy, particularly in cases where no reason is provided, could constitute an abuse of discretion as an unreasoned decision could appear either arbitrary or capricious.

Next, the WCJ has attempted to limit the en banc decision in *Chicago Dogs* to only those cases where a *witness* seeks to appear remotely, and thus, it may preclude a *witness* from participating. We do not read such a limitation in the holding. Denying a request for an attorney to appear electronically may also implicate due process concerns. This is particularly true in cases of minor consequence where the denial of an electronic appearance could be construed as coercing the party who must travel to appear.

Lastly, we would caution all parties that objections to remote proceedings must be made in good faith. If it is found that a party obtained an in-person trial because of either frivolous or bad faith litigation tactics, that party may be found liable for opposing counsel's costs related to the appearance.

It appears that this matter has already proceeded to a remote trial on April 27, 2026. It further appears that the WCJ noted in the minutes that the parties would have to refile a request to appear electronically at the subsequent continued trial. It further appears that the WCJ has not provided sufficient reasons to deny applicant's request to appear electronically at the continued trial and thus, on the record before us, the WCJ appears to have abused their discretion.

Accordingly, we grant removal and as our Decision After Removal, we rescind the Order Regarding Remote Trial issued on June 3, 2026, and issue an order granting applicant's request for remote trial.

For the foregoing reasons,

IT IS ORDERED that applicant's Petition for Removal from the Order Regarding Remote Trial issued on June 3, 2026, by the WCJ is **GRANTED**.

IT IS FURTHER ORDERED as the Decision After Removal of the Workers' Compensation Appeals Board that from the Order Regarding Remote Trial issued on June 3, 2026, by the WCJ is **RESCINDED** with the following **SUBSTITUTED** therefor:

IT IS ORDERED that applicant's Petition for Remote Appearance at Trial filed on May 26, 2026, is **GRANTED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ PAUL F. KELLY, COMMISSIONER

I CONCUR,

/s/ JOSEPH V. CAPURRO, COMMISSIONER

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

AUGUST 31, 2026

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

**ANGEL RAMOS
THE LAW OFFICES OF ROBERT OZERAN
HAWORTH, BRADSHAW, STALLKNECHT AND BARBER, INC.**

EDL/mt

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