

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

EDUARDO ALBERDIN, *Applicant*

**T&T TRUCKING, INC.;
STATE COMPENSATION INSURANCE FUND, *Defendants***

***Lien Claimant/Real Party in Interest:*
MED-1 MEDICAL CENTER, INC.**

**Adjudication Number: ADJ2452007 (STK 0169879)
Lodi District Office**

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

Lien claimant Med-1 Medical Center, Inc. seeks removal of a Minute Order Taking Off Calendar (Minute Order) issued by a workers' compensation administrative law judge (WCJ) on April 6, 2026, wherein the WCJ ordered this consolidated matter off calendar and ordering that "the last standing and alleged beneficiaries of the Med-1 shareholders and any other necessary parties are required to be present any upcoming conferences. All necessary and proper parties must be joined I this action before going forward." (Minute Order, Other/Comments.)

Lien claimant contends that the Minute Order violated lien claimant's right to due process as it issued over the parties' objections after two prior continuances on December 1, 2025 and January 20, 2026, thereby delaying this consolidated matter involving 430 lien claims pending at the Lodi (formerly Stockton) District Office without any significant progress since a prior 2009 trial; the Workers' Compensation Appeals Board (WCAB) lacks jurisdiction over "the last standing and alleged beneficiaries of the Med-1 shareholders" as Med-1 continues to exist as a corporation and is the legal entity over which the WCAB has jurisdiction because the rights and liabilities of a corporation are distinct from the shareholders' rights and liabilities; absent a lawful subpoena for the attendance of witnesses (Lab. Code, § 132), there is no jurisdiction to require Med-1 shareholders to attend hearings in these consolidated proceedings; and, the Med-1

shareholders reside outside of California and therefore would require out of state subpoenas (Lab. Code, § 5710).

State Compensation Insurance Fund (SCIF) filed an answer to lien claimant's Petition for Removal (Answer), and the WCJ filed a Report and Recommendation on Petition for Removal (Report), recommending denial of the petition.

Lien claimant filed a Petition for Permission to File Supplemental Petition pursuant to WCAB Rule 10964 (Cal. Code Regs., tit. 8, § 10964), which we grant and thus consider. Lien claimant contends that SCIF has without evidence and for the first time alleged that the shareholders of Med-1 are "indispensable parties" to this consolidated matter and therefore must be joined as parties; and, further, has without evidence and for the first time alleged that joinder of the shareholders is necessary to provide evidence as to whether counsel for Med-1 has engaged in ethical misconduct by "'acting as the true, de facto decision-maker for all Med-1...decisions since the death of the sole owner/shareholder/director, Dr. Alan Russokov on 12/30/2018.'" (Supplemental Petition, p. 2.)

We have reviewed the record in this consolidated matter, the allegations of the Petition for Removal, the Supplemental Petition, and the Answer, and the contents of the Report. Based on our review of the record and for the reasons set forth below, we grant removal and return this matter to the trial level for further proceedings consistent with this decision.

I.

Removal is an extraordinary remedy rarely exercised by the Appeals Board. (*Cortez v. Workers' Comp. Appeals Bd.* (2006) 136 Cal.App.4th 596, 600, fn. 5 [71 Cal.Comp.Cases 155, 157, fn. 5]; *Kleemann v. Workers' Comp. Appeals Bd.* (2005) 127 Cal.App.4th 274, 281, fn. 2 [70 Cal.Comp.Cases 133, 136, fn. 2].) The Appeals Board will grant removal only if 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*.) In addition, 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).)

On March 13, 2026, SCIF filed a declaration of readiness to proceed (DOR) stating that a hearing was required to assist the parties "create a PTCS [pre-trial conference statement]." (DOR, March 13, 2026, p. 2.) The matter was set for status conference on April 6, 2026. (Minute Order,

April 6, 2026.) Lien claimant filed a Notice of Intent to Use Court Reporter at the April 6, 2026 status conference, but the WCJ issued an order denying lien claimant the right to have a court reporter at the April 6, 2026 status conference. (Notice of Intent to Use Court Reporter, April 2, 2026; Order Denying Petition, April 3, 2026.) On April 6, 2026, the status conference was held after which the Minute Order was issued by the WCJ. (Minute Order, April 6, 2026.) The WCJ ordered that “the last standing and alleged beneficiaries of the Med-1 shareholders and any other necessary parties are required to be present at any upcoming conferences. All necessary and proper parties must be joined in this action before going forward.” (Minute Order, Other/Comments.) We find no pre-trial conference statement in the record resulting from the April 6, 2026 status conference.

Here, the WCJ issued a simple minute order taking this consolidated matter off calendar and did so without an evidentiary hearing, an opinion on decision, or a minutes of hearing and summary of evidence. Normally, this would not present an issue of due process. However, the WCJ also issued an additional, somewhat ambiguous order that “the last standing and alleged beneficiaries of the Med-1 shareholders” (the shareholders) are necessary parties that must be joined. (Minute Order, Other/Comments.) Lien claimant sought removal because of this additional order.

As an initial matter, an adequate and complete record is necessary to understand the basis for a WCJ’s decision. (Lab. Code, § 5313; Cal. Code Regs., tit. 8, § 10787; *Hamilton v. Lockheed Corporation* (*Hamilton*) (2001) 66 Cal.Comp.Cases 473, 476 (Appeals Bd. en banc).) Section 5313 requires that together with findings of fact, orders, and/or awards, a WCJ “shall” serve “a summary of the evidence received and relied upon and the reasons or grounds upon which the determination was made.” (Lab. Code, § 5313; see *Blackledge v. Bank of America, ACE American Insurance Company* (*Blackledge*) (2010) 75 Cal.Comp.Cases 613, 621-22.) A 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 [removal] more meaningful.” (*Hamilton, supra*, 66 Cal.Comp.Cases at p. 476, citing *Evans v. Workmen’s Comp. Appeals Bd.* (1968) 68 Cal.2d 753, 755 [33 Cal.Comp.Cases 350, 351].)

The Minute Order was issued without any minute order addendum or opinion on decision identifying the evidentiary and legal grounds for the order, which makes it impossible for the Appeals Board to review the evidentiary or legal justification for the WCJ’s orders. In addition,

the WCJ prevented the presence of a court reporter at the April 6, 2026 status conference, and thus, there is also no transcript of the status conference to aid in our review.

The Report of the WCJ is unhelpful and ignores the gravamen of lien claimant's petition except to say that "[t]he court found out just recently that the alleged last standing shareholder has died and there are apparent/alleged heirs which may be claiming an award." (Report, p. 2.) By this statement, the WCJ *merely identifies a potential issue* in this consolidated matter but does nothing to clarify or explain the evidentiary or legal basis for the joinder order, which essentially declares the shareholders necessary parties that must be joined before the WCJ will set this consolidated matter for any further hearing.

As to the WCJ's order that the shareholders – whoever they may be – are required to appear in this consolidated proceeding, lien claimant is correct that the WCAB lacks jurisdiction to order the shareholders – whoever they may be – to appear at a workers' compensation hearing. Should it become necessary for the shareholders – whoever they may be – to appear in front of the WCAB, then a party or the WCJ will need to instigate the proper procedure to secure their appearance, i.e., a legally sufficient and properly served subpoena to appear. (Lab. Code, § 132.)

Next, the WCJ's order related to joinder is simply void ab initio given that no petition to join was filed and the WCJ never issued a notice of intention to join. Indeed, no WCJ may order joinder sua sponte from the bench in violation of the 10-day waiting period required by WCAB Rule 10382 (Cal. Code Regs., tit. 8, § 10382).

The Appeals Board or a workers' compensation judge may order the joinder of additional parties not named in the Application for Adjudication of Claim, whose presence is necessary for the full adjudication of the case. **A party shall not be joined until 10 days after service of either a petition for joinder by a party or a notice of intention to order joinder issued by a workers' compensation judge, unless the party to be joined waives its right to this notice period.**

(a) Any person in whom any right to relief is alleged to exist may appear, or be joined, as an applicant in any case or controversy before the Workers' Compensation Appeals Board.

...

(d) If an objection is received within 10 days of service of a petition for joinder or a notice of intention to order joinder, the workers' compensation judge shall consider the objection before joining the party and, if requested in the objection, shall provide the objector the opportunity to be heard before ordering joinder.

(Cal. Code Regs., tit. 8, § 10382, bold added.)

The 10-day waiting period in WCAB Rule 10382 recognizes the primacy of due process and the right of all parties to notice and the opportunity to be heard. “[L]ien claimants are entitled to due process.” (*Beverly Hills Multispecialty Group, Inc. v. Workers’ Comp. Appeals Bd. (Pinkney)* (1994) 26 Cal.App.4th 789, 803 [59 Cal.Comp.Cases 461].) Due process requires notice and a fair hearing on the issues. (*Rea v. Workers’ Comp. Appeals Bd.* (2005) 127 Cal.App.4th 625, 643 [70 Cal.Comp.Cases 312]; *Rucker v. Workers’ Comp. Appeals Bd.* (2000) 82 Cal.App.4th 151, 157-158 [65 Cal.Comp.Cases 805].) 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. (*Gangwish v. Workers’ Comp. Appeals Bd.* (2001) 89 Cal.App.4th 1284, 1295 [66 Cal.Comp.Cases 584].) **“[I]f 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], bold added.)

Therefore, the Minute Order violated the parties right to due process by failing to notice and then hold an evidentiary hearing on the issue of whether all necessary parties have been named and joined in this consolidated proceeding *and* by failing to comply with the notice and hearing requirements of WCAB Rule 10382 prior to ordering joinder of any potential party. We therefore grant removal because a violation of due process is an irreparable harm that cannot be remediated by future reconsideration.

We note that petitioner contends in its Supplemental Petition that SCIF argues for the first time in this consolidated matter in its Answer to this Petition for Removal that there are additional, necessary parties to be joined and/or that counsel for lien claimant has acted without authority on behalf of these unknown and alleged necessary parties. We remind the parties that Labor Code section 5813 grants the WCJ and the Appeals Board authority to impose sanctions against any party utilizing, “bad faith actions or tactics that are frivolous or solely intended to cause unnecessary delay.” (Lab. Code, § 5813(a).) Generally, such actions or tactics include those “that

result from a willful intent to disrupt or delay the proceedings of the Workers' Compensation Appeals Board, or that are done for an improper motive or are indisputably without merit." (Cal. Code Regs., tit. 8, § 10421, subd.(b); see subd. (b)(6)(A)(iii).)

Accordingly, we grant removal and as our decision after removal, we rescind the order of the WCJ that "the last standing and alleged beneficiaries of the Med-1 shareholders and any other necessary parties are required to be present at any upcoming conferences. All necessary and proper parties must be joined in this action before going forward." (Minute Order, Other/Comments.) It is also our decision after removal to return this consolidated matter to the trial level for further proceedings consistent with this decision.

For the foregoing reasons,

IT IS ORDERED that lien claimant Med-1 Medical Center, Inc.'s Petition for Removal of the April 6, 2026 Minute Order taking off calendar issued by a workers' compensation administrative law judge is **GRANTED**.

IT IS FURTHER ORDERED as the Decision after Removal of the Workers' Compensation Appeals Board that the April 6, 2026 Minute Order that "the last standing and alleged beneficiaries of the Med-1 shareholders and any other necessary parties are required to be present at any upcoming conferences. All necessary and proper parties must be joined in this action before going forward" issued by a workers' compensation administrative law judge is **RESCINDED** and this matter is **RETURNED** to the trial level for further proceedings consistent with this decision.

WORKERS' COMPENSATION APPEALS BOARD

/s/ CRAIG L. SNELLINGS, COMMISSIONER

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

/s/ KATHERINE A. ZALEWSKI, CHAIR



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

JULY 7, 2026

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

**MED-1 MEDICAL CENTER, INC.
STATE COMPENSATION INSURANCE FUND, LEGAL**

AJF/mc

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